

H4q1thil

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 47 (DC)

5 MAHMOUD THIAM,

6 Defendant.

Trial

7 -----x

8 New York, N.Y.

9 April 26, 2017

9:36 a.m.

10 Before:

11 HON. DENISE COTE,

12 District Judge,  
13 and a Jury

14 APPEARANCES

15 JOON H. KIM

16 Acting United States Attorney for the  
17 Southern District of New York

BY: ELISHA J. KOBRE

18 CHRISTOPHER J. DiMASE

Assistant United States Attorney

19 -and-

20 U.S. DEPARTMENT OF JUSTICE

BY: LORINDA I. LARYEA

21 LAW OFFICE OF AARON GOLDSMITH, PC

Attorneys for Defendant

22 BY: AARON M. GOLDSMITH, ESQ.

MICHAEL DELAKAS, ESQ.

23 ALSO PRESENT: PATRICK KILLEEN, Special Agent, FBI

24 ALEXANDER BEER, Paralegal Specialist, USAO

KATHERINE BOSLEY, Paralegal Specialist, DOJ

25 JENNIE CARMONA, Defense Paralegal

H4q1thil

(Trial resumed; jury not present)

THE COURT: So we'll put on the record there was a lockdown at the MCC and as a result, the defendant was not produced from the facility on time and has essentially just arrived. Ms. Rojas had inquired, and I understand there were no issues that either the government or defendant had to raise with me. Is that true, Mr. Kobre?

MR. KOBRE: It is, your Honor.

THE COURT: Mr. Goldsmith?

MR. GOLDSMITH: I have a relatively minor issue that developed as a result of the defendant's delay.

THE COURT: Sure.

MR. GOLDSMITH: I also got an email a short while ago that all legal visits are suspended at MCC for today. Last night Ms. Carmona and I attempted to see him, and at about 6:15, 6:30, we were kicked out with all other legal counsel because of a lockdown. So because we haven't been able to see him yesterday, won't be able to see him at MCC tonight, I'd request the Court reach out to the Marshals to see if we could be accommodated after the close of sessions today to visit with him downstairs on the fourth floor.

THE COURT: Great. I'm certainly happy to do that. And approximately how long, Mr. Goldsmith, would you like; an hour or so?

MR. GOLDSMITH: Like an hour and a half, just to be

H4q1thil

1 safe.

2 THE COURT: Okay. Hour and a half. Great. And  
3 Ms. Rojas is checking on the status of the jury right now.

4 And I had a quick question for the government. There  
5 is a request to charge about aiding and abetting which I'm not  
6 planning to give. Am I correct that that shouldn't have been  
7 included in your request?

8 MR. KOBRE: That is correct, your Honor.

9 THE COURT: Okay. Let me talk to Ms. Rojas.

10 Okay. Well, we're missing two jurors. They had  
11 called Ms. Rojas earlier to give her a heads up that they would  
12 be delayed. They are still not here. This will give the  
13 defendant and counsel some time to chat. I'll ask Ms. Rojas to  
14 see if arrangements can be made with the Marshals to keep the  
15 defendant in the courthouse until 6:30 this evening.

16 MR. GOLDSMITH: Thank you.

17 THE COURT: Yes. So there can be further  
18 communication with the defendant.

19 And Ms. Rojas will let us know as soon as we have a  
20 jury, but I'm going to look at the situation by 10:00. If we  
21 don't have both jurors, I want counsel to reflect on what we  
22 should do. I'm not taking any action before I consult with  
23 you, but let's see how it goes. Thanks.

24 THE DEPUTY CLERK: All rise.

25 (Recess)

H4qlthil

Camara - Cross

1 (In open court; jury not present)

2 THE COURT: So this is the situation. We're missing  
3 one juror. Let me ask Ms. Rojas when this juror contacted us  
4 this morning.

5 She contacted us roughly two hours ago, 8:03, and that  
6 she was on her way from the Bronx. This is now two hours  
7 later. We have three alternates at this point.

8 She is walking towards the building right now, so  
9 we'll of course wait for her. And she was profusely apologetic  
10 in both phone calls. The second one occurred as I was  
11 describing events to counsel.

12 Okay. So Ms. Rojas will let us all know when we have  
13 every juror here. Thanks so much.

14 THE DEPUTY CLERK: All rise.

15 (Recess)

16 (In open court; jury not present)

17 THE COURT: Bring in the jury, bring in the witness.

18 And Mr. Goldsmith, the Marshals are making  
19 arrangements for you to be with the defendant until 6:30.

20 MR. GOLDSMITH: Great. Thank you.

21 (Jury present)

22 THE COURT: Good morning, ladies and gentlemen.

23 THE JURORS: Good morning.

24 THE COURT: I want to thank all of you for being here  
25 on time. We've lost a lot of time in this trial yesterday and

H4q1thil

Camara - Cross

1 then again today, and I just want to stress again how important  
2 it is that everyone make the effort to be here on time so we  
3 can start promptly at 9:30 in the morning. And I thank all of  
4 you for your cooperation and working to achieve that.

5 I want to remained the witness you are still under  
6 oath. Counsel.

7 MR. GOLDSMITH: Thank you.

8 DAOUDA CAMARA, resumed.

9 CROSS EXAMINATION

10 BY MR. GOLDSMITH:

11 Q. Mr. Camara, you said yesterday that Guinea was a French  
12 colony, is that correct?

13 A. Yes.

14 Q. And it gained its independence in 1958, is that correct?

15 A. Yes.

16 Q. In 2008 there was a coup d'état that changed the  
17 government, is that correct?

18 A. Yes.

19 Q. And the government that was put in place was referred to as  
20 the CNDD.

21 A. Yes.

22 Q. And at the time the military regime, called the CNDD, had  
23 aspirations of creating a democratic government.

24 A. Yes.

25 Q. And when they came into power, they announced that they

H4qlthil

Camara - Cross

1 expected to take one or two years to transition to a democratic  
2 government.

3 A. Yes.

4 Q. The president under the CNDD we've called Dadis, is that  
5 correct?

6 A. Yes.

7 Q. When Dadis came into power, one of his primary concerns was  
8 cleaning up drug trafficking that was occurring in Guinea.

9 A. Yes.

10 Q. He also developed a reputation as being very strict against  
11 corruption.

12 A. Yes.

13 Q. In fact, he even threatened ministers associated with the  
14 previous government on national television.

15 A. Yes.

16 Q. At the time that the CNDD took over as the government,  
17 President Dadis ultimately appointed the ministers of the  
18 cabinet.

19 A. Yes.

20 Q. And the ministers of the cabinet were several, correct?

21 A. Yes.

22 Q. Under the organization at the time, the president was the  
23 most powerful executive, is that correct?

24 A. Yes.

25 Q. The most powerful minister was the prime minister, is that

H4qlthil

Camara - Cross

1 correct?

2 A. Yes.

3 Q. Some of the other ministers that you testified about  
4 yesterday included Loholamou, who was the justice minister. Do  
5 you recall that?

6 A. Yes.

7 Q. You also discussed Mr. Sande, who was the finance minister.

8 A. Yes.

9 Q. And you discussed Boubacar Barry, who was the housing  
10 minister. Do you recall that?

11 A. Yes.

12 Q. Beneath the prime minister, the cabinet ministers were next  
13 in power in the overall government of Guinea, is that correct?

14 A. Yes.

15 Q. And there was a hierarchy in the power of the cabinet  
16 ministers, is that correct?

17 A. Yes.

18 Q. Because certain cabinet ministers held more power and  
19 influence with the president than others did.

20 A. Yes.

21 Q. And then of course, as you described yesterday, beneath the  
22 central government was the local governors.

23 A. Yes.

24 Q. At the time that Dadis took over as president and the CNDD  
25 took over, Guinea had very little cash, is that correct?

H4qlthil

Camara - Cross

1 A. Yes.

2 Q. Guinea was also subject to international sanctions.

3 A. Yes.

4 Q. As part of his efforts to clean up the country of Guinea,  
5 President Dadis also needed to address the issue of cash when  
6 they took over, is that correct?

7 A. Yes.

8 Q. In fact, it was looked upon by most of the cabinet as  
9 perhaps the most important issue for the government.

10 A. Yes.

11 Q. You also testified about Mr. Thiam, my client, who at the  
12 time was the minister of mines.

13 A. Yes.

14 Q. And the minister of mines was one that was required to  
15 report to the president.

16 A. Yes. Like any minister.

17 Q. And on the meeting minutes of the cabinet meeting that you  
18 testified about yesterday in October, shortly before --

19 MR. GOLDSMITH: Sorry. I'll wait for Madam  
20 Interpreter.

21 THE INTERPRETER: No, that's fine.

22 Q. -- shortly before the voting on the shareholder  
23 agreement --

24 A. Yes.

25 Q. -- at that meeting there were minutes taken.



H4qlthil

Camara - Cross

1 A. Yes.

2 Q. And in the minutes of those meetings it recorded who was in  
3 attendance.

4 A. Yes.

5 Q. And in those minutes the minister of mines -- if you'd like  
6 to review Government Exhibit 407.

7 A. Yes.

8 Q. Do you see the minister of mines and energy listed,  
9 correct?

10 A. Yes.

11 Q. And he is referred to in title as the Minister at the  
12 Presidency in Charge of Mines and Energy?

13 A. Yes.

14 Q. And he is the only minister that is given that specific  
15 title.

16 A. Yes.

17 Q. Let me clarify. That may be confusing. He is the only  
18 minister who is referred to as a minister at the presidency.

19 A. Yes.

20 Q. And is that because he was not considered the same as the  
21 regular ministers of state?

22 A. Yes, he was different from the other ministers of state,  
23 from his status.

24 Q. The minister of mines, as it applies to the CIF investment  
25 agreement, was in part responsible for engaging in

H4qlthil

Camara - Cross

1 negotiations, is that correct?

2 A. Yes.

3 Q. He was --

4 THE INTERPRETER: It's for my throat, your Honor.

5 THE COURT: I'm going to ask you then please to keep  
6 your voice up so the court reporters can hear you. Thank you.

7 THE INTERPRETER: Okay, your Honor.

8 (Continued on next page)

H4qWthi2

Camara - Cross

1 MR. GOLDSMITH: Do we have a microphone available?

2 THE INTERPRETER: I asked for a microphone before.

3 THE COURT: Give me one second.

4 THE INTERPRETER: I'm going to use that as well? Yes,  
5 I asked yesterday for a microphone, and I wasn't provided a  
6 microphone.

7 MR. GOLDSMITH: Sorry, your Honor.

8 THE COURT: I think we've rearranged the microphone  
9 situation which will hopefully assist one and all.

10 MR. GOLDSMITH: Great. Thank you.

11 Q. The minister of mines was the point of contact for those  
12 CIF investment negotiations, is that correct?

13 A. Yes.

14 Q. But the minister of mines' authority regarding those  
15 negotiations was limited?

16 A. Well, yes.

17 Q. He was under the direction of President Dadis during those  
18 negotiations?

19 A. First of all, under the prime minister.

20 Q. Correct, but he was also, as far as you were aware, taking  
21 direction from the president about the investment agreement.  
22 Correct?

23 A. He probably followed some of the guidelines, but as far as  
24 I know, I was not aware of it. I am aware of what was  
25 happening with the prime minister.

H4qWthi2

Camara - Cross

1 Q. All right. So you were not personally aware of any  
2 communications back and forth between the president's office  
3 and Mr. Thiam's office when he was the minister of mines?

4 A. No.

5 Q. Now, the CIF investment agreement was not the only  
6 agreement that the country of Guinea had regarding mining  
7 during the year of 2009, is that correct?

8 A. Yes.

9 Q. In fact, there were a number of very significant agreements  
10 between the country of Guinea and private companies regarding  
11 mining rights during that year?

12 A. Yes.

13 Q. Those included the companies Rio Tinto and BSGR, regarding  
14 iron ore?

15 A. Yes.

16 Q. And the company BHP for bauxite?

17 A. Yes, BHB, BAB.

18 Q. As well as the company Bellzone, also regarding iron ore?

19 A. Yes.

20 Q. And aside from your experience in government, you also had  
21 experience within the mining industry?

22 A. Yes, a little bit of experience.

23 Q. So within those roles, you have some understanding of the  
24 differences between exploration, exploitation, and concessions  
25 within the country of Guinea during 2009?

H4qWthi2

Camara - Cross

1 A. Yes.

2 Q. So I'm going to simplify what I think I heard you testify  
3 about those rights yesterday. Would you agree with me that  
4 exploration permits allow a company to dig to see if there's  
5 anything valuable underground?

6 A. Yes. Yes, to establish the currently value of the resource  
7 that's going to be extracted and the exploitation character.

8 Q. And it can take a company several years to determine if a  
9 particular deposit is valuable enough to pursue?

10 A. It can take from six to ten years.

11 Q. And when the government of Guinea would give exploration  
12 permits, those permits had a specific time period that they  
13 were valid?

14 A. Yes, and if you need some explanations, I can give you  
15 explanations later.

16 Q. Thank you.

17 Exploitation is different than exploration?

18 A. Yes.

19 Q. Exploitation is when that company has decided that whatever  
20 reserve underground is valuable enough to pursue, they now have  
21 the right to mine it and sell it?

22 A. Yes.

23 Q. And I believe you testified yesterday that exploitation  
24 permits are only for a specific size of surface area?

25 A. Yes.

H4qWthi2

Camara - Cross

1 Q. 1,400 kilometers square, I believe?

2 A. No. 1,400 square kilometers is for research. There is a  
3 first retrocession representing half of 1,400 square kilometers  
4 for the first renewal, and there's a second retrocession which  
5 represents the half of the first half for the second renewal.  
6 So if you have 1,400 square kilometers, so if you are renewed,  
7 you only supposed to get 700 square kilometers, and if you  
8 renewed a second time, you must have a half of those 700 square  
9 kilometers that represents 350 square kilometers. These are  
10 the 350 square kilometers that you can use for your  
11 exploitation and your exploration.

12 Q. Thank you.

13 A. And that's it.

14 Q. And your right to exploit only lasts for a specific period  
15 of time?

16 A. Yes, with potential extensions of renewal, renewals.

17 Q. There was also a third category that you testified about  
18 yesterday called concessions.

19 A. Yes.

20 Q. And would you agree with me when I characterize concessions  
21 as being much larger and longer-term rights to exploit?

22 A. Yes, but it also involves bigger investments.

23 Q. And under the law in operation of Guinea in 2009, the  
24 president was required to approve any concession.

25 A. That's the 1995 law.

H4qWthi2

Camara - Cross

1 Q. That was in effect in 2009?

2 A. That was in effect, and it was the president who had to  
3 grant the concessions.

4 Q. Most of your day yesterday was spent testifying about the  
5 CIF investment project?

6 A. Yes.

7 Q. When did the negotiations start?

8 A. The negotiations started during the first four months,  
9 between the end of the first quarter and the beginning of the  
10 second one, and they extended toward October, toward the  
11 beginning of the last quarter of 2009.

12 Q. So if you can, tell us a month and a year when the  
13 negotiations started.

14 A. I don't quite recall about that, but it's probably during  
15 the first quarter of 2009.

16 Q. And when was the first quarter of 2009?

17 A. It's between the appointment of Mr. Thiam that happened on  
18 January 14, 2009, and the month of April 2009.

19 Q. So January to April of 2009?

20 A. Yes.

21 Q. And the negotiations, as far as your testimony yesterday,  
22 concluded in October of 2009?

23 A. Yes.

24 Q. And you testified yesterday -- withdrawn.

25 In your testimony yesterday, you referred to this agreement

H4qWthi2

Camara - Cross

1 with CIF as an investment project. Do you recall that?

2 A. Yes.

3 Q. You called it an investment project because it was about  
4 CIF investing in Guinea?

5 A. In various economic sectors.

6 Q. And that included not just mining but also agriculture,  
7 correct? As well as fishing?

8 A. Yes.

9 Q. Transportation?

10 A. Yes.

11 Q. Water?

12 A. Yes.

13 Q. Electricity?

14 A. Yes.

15 Q. And of course, providing the country of Guinea with cash?

16 A. Yes.

17 Q. All projects --

18 A. To the budget.

19 Q. So that the country could operate?

20 A. Yes.

21 Q. All very important to the country?

22 A. Yes.

23 Q. You testified about an aspect of the shareholders agreement  
24 whereby Guinea would give up future mining profits?

25 A. Can you explain a little bit more?



H4qWthi2

Camara - Cross

1 Q. Sure. This was an investment project, but it was an  
2 agreement that CIF was giving money for, correct?

3 A. Yes.

4 Q. And in exchange for its investment in Guinea, it wanted to  
5 have some financial returns?

6 A. Of course.

7 Q. Nothing extraordinary about that?

8 A. It's in the logistics of all the investments, it's the  
9 rationale of the investments.

10 Q. Of all investments?

11 A. Except for philanthropic investments.

12 Q. Of course.

13 At the time that Mr. Thiam came to work for the Republic of  
14 Guinea, he was recruited by President Dadis, correct?

15 A. How was he recruited? At least it was President Dadis who  
16 nominated him in his government.

17 Q. OK. And Mr. Thiam was recruited because he had a number of  
18 international business contacts?

19 MR. KOBRE: Objection.

20 THE COURT: Sustained.

21 Q. Do you know why the president recruited Mr. Thiam over  
22 other candidates?

23 MR. KOBRE: Objection, your Honor.

24 THE COURT: Sustained.

25 Q. Were you included in the process of the recruitment of

H4qWthi2

Camara - Cross

1 Mr. Thiam?

2 A. No. As I mentioned before, I don't know how he was  
3 recruited, how he was selected.

4 Q. You testified yesterday about the technical committee that  
5 was established to review the agreements?

6 A. Yes.

7 Q. The technical committee was including between 15 and 17  
8 people, is that correct?

9 A. Yes, if I can recall correctly.

10 Q. And those people were made up of ministers as well as  
11 advisers?

12 A. No. It was mostly advisers and directors.

13 Q. Were there any ministers on the committee?

14 A. No. It was a technical committee. There was no minister.

15 Q. And the individuals on the technical committee were  
16 advisers from within the country of Guinea, or did it include  
17 people from the outside as well?

18 A. They were people from Guinea. We had asked to get some  
19 foreign law firms to assist our team, but the government didn't  
20 have the money to pay for their services.

21 Q. When was the technical committee created?

22 A. It's during the first semester of 2009. I don't know the  
23 exact date, and there's not a recent decree that indicates  
24 that.

25 Q. What do you mean by first semester?

H4qWthi2

Camara - Cross

1 A. First semester, by that, it is -- I mean until the month of  
2 June or July, of 2009.

3 Q. So the technical committee did not have a chance to --  
4 well, withdrawn.

5 Do you recall if it was the early part of the first half of  
6 2009 or the latter part of the first half of 2009?

7 A. No, I don't have any documents to look at, so I can't tell  
8 you exactly.

9 Q. You don't have any independent recollection as a member of  
10 the technical committee?

11 A. No, I don't have any independent recollection. Maybe I  
12 need a little bit more time to, to look at my memory -- into my  
13 memory.

14 Q. OK. Did you have an independent recollection of all these  
15 negotiations without having reviewed all the documents that you  
16 testified about yesterday?

17 A. I have a few recollections.

18 Q. But not too much?

19 A. Not very detailed recollections.

20 Q. I'd ask you to take a look at Government Exhibit 401.

21 A. Yes.

22 Q. OK. This is the memorandum of understanding, correct?

23 A. Yes.

24 Q. Make sure you've got your glasses on.

25 And this version of the memorandum of understanding is

H4qWthi2

Camara - Cross

1 dated from June of 2009?

2 A. Yes.

3 Q. And as you testified about yesterday, the memorandum of  
4 understanding is the first in the series of agreements?

5 A. Yes.

6 Q. This was a simple outline of what CIF and the Guinean  
7 government wanted to do together?

8 A. Yes. It was the intentions that were expressed there  
9 regarding certain activities that were supposed to be  
10 implemented by both parties.

11 Q. This agreement was -- well, withdrawn.

12 You testified earlier that you believed the negotiations on  
13 the investment projects started sometime in the first quarter  
14 of 2009. Do you recall that?

15 A. Yes.

16 Q. And so this agreement represents, at the very least,  
17 several weeks of negotiations between Guinea and CIF?

18 A. No. This memorandum of understanding didn't take several  
19 weeks. The project was presented to the prime minister, and  
20 the prime minister gave instructions to review it very quickly.  
21 And then we did the procedures and then we reported to him.

22 Q. OK. The memorandum of understanding would not have been  
23 drafted until both parties had a firm understanding of their  
24 intention to engage in the investment project together,  
25 correct?

H4qWthi2

Camara - Cross

1 A. Yes.

2 Q. And it would not have been created until both sides had had  
3 the opportunity to meet and discuss their intentions regarding  
4 that investment project?

5 A. Yes.

6 Q. And so this dated as June would represent a significant  
7 time period where those does discussions between Guinea and CIF  
8 took place?

9 A. There were certainly some discussions at the very high  
10 level, and perhaps we were not involved in those discussions,  
11 and we received it as a draft. Perhaps there were some  
12 internal discussions between the prime minister and the  
13 concerned ministers on this project and it's the result of  
14 several discussions that didn't take too much time. Perhaps it  
15 would represent several weeks, but not several months.

16 Q. Do you have personal knowledge of what happened in those  
17 discussions between the prime minister and the concerned  
18 ministers? Prior to this being signed?

19 A. No.

20 Q. And it's acknowledged by Minister Sande. Do you see that  
21 on page 2?

22 A. Yes.

23 Q. Is that because he was the minister of finance?

24 A. Yes. He was the most concerned at that stage.

25 Q. In tandem with the memorandum of understanding was the

H4qWthi2

Camara - Cross

1 master agreement?

2 A. Yes.

3 Q. Could you take a look at Government Exhibit 402?

4 A. Yes.

5 Q. This was also the agreement that you referred to yesterday  
6 as the framework agreement, is that correct?

7 A. Yes.

8 (Continued on next page)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

H4qlthi3

Camara - Cross

1 BY MR. GOLDSMITH:

2 Q. And Exhibit 402 represents the version of that agreement  
3 dated June of 2009, is that correct?

4 A. June 12, 2009.

5 Q. This version of the master agreement states that the  
6 investment project belongs to both CIF and Guinea, correct?

7 A. Yes.

8 Q. It is a joint venture, is that the appropriate  
9 characterization?

10 A. Yes.

11 Q. And in this version of the master agreement, it describes  
12 the necessity for investments and financing for projects in  
13 Guinea.

14 A. Yes.

15 Q. And ultimately those were about cash for the government and  
16 building infrastructure from the point of view of the Guinean  
17 government.

18 A. The cash for the support to the Guinean budget was in a  
19 separate agreement as well as a reinforcement of the  
20 structures. It was in a different agreement. But in this  
21 agreement, beyond the question of infrastructure, there were  
22 also mentioned questions regarding the common interest.

23 Perhaps under this point of view one can talk about the  
24 liquidity, the cash matters.

25 Q. Now there was a loan that was provided to the government of

H4qlthi3

Camara - Cross

1 Guinea from CIF. Do you recall that?

2 A. Yes.

3 Q. Do you recall that it was \$75 million?

4 A. It was \$78 million.

5 Q. I apologize. Thank you for your clarification.

6 And that money was given to the country of Guinea prior to  
7 the execution of the shareholders agreement in October of 2009,  
8 correct?

9 A. Well, I assume it was given to Guinea, but it's the  
10 ministry of finance -- minister of finance who will be able to  
11 confirm that, since he is present here.

12 Q. Okay. And do you know if that was funded through the  
13 Central Bank of Guinea?

14 A. Well, yes, after the loan agreement was signed.

15 Q. If you take a look at the signatory page on that exhibit --

16 A. Yes.

17 Q. -- was that executed by Minister Sande?

18 A. Yes.

19 Q. And following that page, there are others, correct?

20 A. No. That's the last page of the frame agreement.

21 Q. In Government Exhibit 401 -- sorry -- 402 --

22 A. Yes.

23 Q. -- are there two pages that follow that are mandates?

24 A. No. The only last page is regarding the provisions  
25 regarding what has to be provided to the CIF; for example, the



H4qlthi3

Camara - Cross

1 land that has to be provided to CIF.

2 Q. Do you see two pages --

3 A. I can see only one page.

4 Q. Does it have a number on it, 1426?

5 THE COURT: Mr. Goldsmith, if you can approach the  
6 witness and look at the document he's looking at, if you'd  
7 like.

8 Q. Take a look at these two pages.

9 THE COURT: What are you handing him, Mr. Goldsmith,  
10 for the record?

11 MR. GOLDSMITH: After discussions with the government,  
12 they are part of 402, but not included with the package that  
13 the witness had been provided.

14 MR. KOBRE: That's correct, your Honor.

15 THE COURT: Thank you.

16 A. Yes.

17 Q. Would you tell us which minister executed those mandates.

18 A. It's Boubacar Barry.

19 Q. And Mr. Barry was the minister of housing at the time,  
20 correct?

21 A. Yes.

22 Q. None of the drafts of documents that you and I have  
23 discussed today were signed by Mr. Thiam as minister of mines,  
24 correct?

25 A. No.

H4qlthi3

Camara - Cross

1 Q. If you can take a look at Government Exhibit 408.

2 A. Yes.

3 Q. 408, does that represent the shareholder agreement that was  
4 executed in October of 2009?

5 A. Yes.

6 Q. Prior to October, you reviewed other drafts of the  
7 agreements that we testified about today, correct?

8 A. Yes.

9 Q. Would you look at Exhibit 406, please.

10 A. Yes.

11 Q. 406 represents the master or framework agreement as it was  
12 revised for July of 2009.

13 A. This agreement, practically, we didn't see it; we didn't  
14 review it in our committee.

15 Q. I did not ask that question.

16 A. Then I didn't understand what you meant.

17 Q. Does this agreement represent a revised version of the  
18 master or framework agreement that is dated for July of 2009?

19 A. It represents a revised version with new provisions, or  
20 different provisions from the framework agreement.

21 Q. That you testified about yesterday.

22 A. Yes.

23 Q. And the earlier version of that agreement was dated  
24 approximately a month earlier than this one, correct?

25 A. Of which agreement?

H4qlthi3

Camara - Cross

1 Q. The master agreement. Feel free to look if you need to.

2 A. No, I can't recall, or I don't understand your question.

3 Q. If you could look at Government Exhibit 406, as well as  
4 Government Exhibit 402.

5 A. You mean 402 or 400?

6 Q. I would like you to take a look at both of them quickly,  
7 side by side.

8 THE COURT: Counsel, he asked: Did you mean 402 or  
9 400?

10 MR. GOLDSMITH: I'm sorry.

11 Q. 402.

12 A. Okay. 402 and 408?

13 Q. 402 and 406.

14 A. Yes.

15 Q. Take a look at them briefly.

16 A. Yes.

17 Q. They both represent different versions of the master or  
18 framework agreement, correct?

19 A. Yes.

20 Q. 402 is dated in June of 2009, correct?

21 A. Yes.

22 Q. And -- I'm sorry. Do you need a minute?

23 A. No, it's okay.

24 Q. 406 is dated July 2009.

25 A. Yes.

H4qlthi3

Camara - Cross

1 Q. And does it appear from your review of those two documents  
2 that 406, or the July version, is a revision of 402?

3 A. Provisions?

4 Q. Does the agreement itself, under 406, appear to be a  
5 revised version of the 402 agreement?

6 A. Certain provisions.

7 Q. Not all of it was changed, right?

8 A. No.

9 Q. Some of it was changed.

10 A. Yes. Including the parties.

11 Q. Right. And you recall testifying yesterday about your  
12 noting the change in the parties.

13 A. Yes, but not for the master agreement that I didn't see. I  
14 know that China Sonangol entered into the process at some point  
15 or another, for reasons obviously to reinforce the investors.

16 Q. Do you recall that that decision was from Guinea, that more  
17 investors were needed because of the size of the project?

18 MR. KOBRE: Objection.

19 THE COURT: Sustained.

20 Q. Did you know if Guinea felt that more investors were needed  
21 because of the size of the project?

22 MR. KOBRE: Objection.

23 THE COURT: Overruled.

24 A. That's a decision by the parties.

25 Q. Yesterday do you recall being asked this question and

H4qlthi3

Camara - Cross

1 providing this answer --

2 A. Yes.

3 Q. "Q. Do you know how it came to be that this party, China  
4 Sonangol International Singapore, became part of this potential  
5 investment?

6 "A. Well --"

7 I'll start again slower.

8 "Q. Do you know how it came to be that this party, China  
9 Sonangol International Singapore, became part of this potential  
10 investment?"

11 THE INTERPRETER: There are two people speaking at the  
12 same time, your Honor.

13 A. We only knew China investment fund.

14 Q. Right. Mr. Camara, I'm going to read for you part of your  
15 testimony from yesterday and ask if you recall saying that,  
16 okay?

17 A. Okay.

18 Q. It's a bit awkward, so I understand it can be difficult.  
19 Please refrain from answering until I've finished, okay?

20 A. Mm-hmm.

21 Q. So I will repeat the exchange again.

22 "Q. Do you know how it came to be that this party, China  
23 Sonangol International Singapore, became part of this potential  
24 investment?

25 "A. Well, given the extent and the scope of the -- and the

H4qlthi3

Camara - Cross

1 project of the agreement, we decided we needed an extra  
2 investor in order to take care of the basic project."

3 A. We estimated.

4 Q. "We," meaning?

5 A. Is the parties. It means the government, China Sonangol,  
6 and the China investment fund.

7 Q. I'd like you to focus now back on Government Exhibit 406.

8 A. Okay.

9 Q. Do you remember testifying yesterday about the repayment of  
10 part of CIF investment?

11 A. Yes.

12 Q. And you remember that you testified that you had expressed  
13 concerns about the repayment of any fees from taxes and  
14 royalties.

15 A. Yes.

16 Q. Would you please take a look at subsection 2.3, letter D as  
17 in David. I'm sorry, letter E as in elephant.

18 A. On which document?

19 Q. 406.

20 A. I can't see a subsection E. It starts at D. If it is the  
21 master agreement.

22 Q. Yes.

23 A. Signed by Guinea, CIF and China Sonangol International  
24 Singapore.

25 Q. Yes. So --

H4qlthi3

Camara - Cross

1 A. There's only A, B, C, D. There is no E.

2 Q. Okay. If you look below that, there are definitions and  
3 interpretations.

4 A. Yes.

5 Q. If you look at subsection 2.3E, under that portion.

6 A. Yes.

7 Q. Please read it.

8 A. I have to say, it's in English.

9 Q. Do you have a French version?

10 A. I don't have the French version.

11 Q. Okay. Are you capable of reading it?

12 A. I'll let you read it.

13 Q. No, no, no. I would like to know if you are capable of  
14 reading it.

15 A. 2.3. Shareholders agreement.

16 Q. Under subsection E only.

17 THE COURT: Counsel, do you want to approach and point  
18 to the section of the document you're inquiring about.

19 A. Okay.

20 MR. KOBRE: Your Honor, I think the government objects  
21 to having the witness read from a document that's not in his  
22 native language.

23 THE COURT: What is your question?

24 MR. GOLDSMITH: I want to know if he's capable.

25 THE COURT: Do you wish him to read out loud or do you

H4qlthi3

Camara - Cross

1 wish the interpreter to translate the passage to him?

2 MR. GOLDSMITH: I'd just like him to read it.

3 THE COURT: To himself quietly.

4 MR. GOLDSMITH: So that he may be able to answer my  
5 next question.

6 THE COURT: Oh. So, sir, if you can just read the  
7 passage quietly to yourself and then the attorney may have a  
8 question for you. We understand it is in English, and  
9 depending on what the question is, if you don't feel able to  
10 answer it fairly because what you've read to yourself is in  
11 English, you may say that. Thank you.

12 THE WITNESS: (In English) Thank you.

13 (Through the interpreter) Thank you, your Honor.

14 A. Okay.

15 Q. Okay. Did you read a provision that stated that CIF should  
16 be reimbursed from future profits?

17 A. Yes.

18 Q. I would also --

19 A. For the profits, for the profits. But it's only for future  
20 profits.

21 Q. Right. I would ask if you could look at subsection 7.1 of  
22 the same agreement. Same as the last question. Just read it,  
23 if you are capable of reading it, and I'll ask you questions.

24 THE COURT: Quietly to yourself.

25 A. Okay.



H4qlthi3

Camara - Cross

1 Q. Did you read a part of that provision that states that if  
2 the project agreement with CIF violates existing laws that  
3 those portions would also be illegal?

4 A. Regarding the party that is violating the right.

5 Q. So as you testified about yesterday, you and others  
6 informed Prime Minister Komara, after the vote on the -- I'm  
7 sorry -- after the signing of the shareholder agreement in  
8 October of 2009, that you believed certain aspects of that  
9 agreement violated existing Guinean laws and contracts.

10 A. Yes.

11 Q. Would the provision of Exhibit 406 that you just read allow  
12 any provision of that agreement that was illegal to be  
13 nullified while preserving the rest of the agreement?

14 A. Yes.

15 Q. If you take a look at the signature page of 406, please,  
16 who signed that agreement on behalf of the Republic of Guinea?

17 A. Boubacar Barry.

18 Q. And is he signing for himself or on behalf of someone else?

19 A. It's signed as a PO.

20 Q. For?

21 A. For Mr. Mamadou Sande, so that means that Mr. Mamadou Sande  
22 was either not available nor present.

23 Q. And when you said PO, does that mean that Mr. Barry was  
24 given the power and authority to sign on Mr. Sande's behalf?

25 A. He was supposed to have a kind of proxy or a kind of

H4qlthi3

Camara - Cross

1 mandate.

2 Q. Like a power of attorney? Are you familiar with that word?

3 A. No. According to French administration, we use another  
4 term for that.

5 Q. Okay. But --

6 A. But it reaches the same result.

7 Q. Right. So in more simple terms, Mr. Barry was given  
8 permission and authority to sign the document on Mr. Sande's  
9 behalf.

10 A. Correct.

11 Q. Do you know who granted Mr. Barry that authority?

12 A. It's Mr. Sande.

13 Q. Do you know why it was granted?

14 A. It was granted because Mr. Sande was not available. He had  
15 other duties.

16 Q. Mr. Sande was quite busy at the time, correct?

17 A. Very busy.

18 Q. Because he was helping to rebuild the finance structure for  
19 Guinea at the time, right?

20 A. Mainly, fundamentally, but also dealing with other concerns  
21 that the government had, because it was a military government.

22 Q. And Mr. Thiam was not given the power and authority to sign  
23 406 on behalf of Mr. Sande.

24 MR. KOBRE: Objection.

25 THE COURT: Sustained.

H4qlthi3

Camara - Cross

1 Q. From your review of that document.

2 MR. KOBRE: Objection.

3 THE COURT: Sustained.

4 Q. Do you recall testifying about the technical committee  
5 holding at least two meetings in October on the eve of the  
6 signing of the shareholder agreement marked as Exhibit 408?

7 A. Yes.

8 Q. During those meetings there were several ministers that  
9 attended, is that correct?

10 A. Yes.

11 Q. Did the prime minister attend?

12 A. Yes.

13 Q. He was the highest-ranking minister at the meeting.

14 A. Yes.

15 Q. There were other differences in ranks amongst the ministers  
16 that were at that meeting, correct?

17 A. Yes.

18 Q. And do you recall testifying about concerns that the  
19 technical committee raised during that meeting about the  
20 shareholders agreement?

21 A. Yes.

22 Q. Do you recall testifying that one of those concerns was  
23 that the exclusivity provision of the shareholder agreement  
24 violated Guinean law?

25 A. Yes.

H4qlthi3

Camara - Cross

1 Q. Could you take a look at Exhibit 408.

2 A. Yes.

3 Q. Could you direct your attention to paragraph 20.6. It's on  
4 page 48. Is this document in French for you?

5 A. Yes. 20.6?

6 Q. Correct. Would you please read that provision to yourself.

7 A. Yes.

8 Q. Is this provision one which allows for the removal of any  
9 aspect of the agreement that is illegal under Guinean law?

10 A. Yes, because according to the law, it says that one cannot  
11 go against the -- with particular agreements, one cannot go  
12 against the laws regarding the public order and the good  
13 behavior. And here, the public order that is mentioned is the  
14 economic public order. Because there are various public  
15 orders. It's an overall concept in law.

16 Q. And is it your understanding that this provision,  
17 paragraph 20.6, would have allowed the agreement to remain in  
18 effect if one portion of it was found to be illegal?

19 A. Yes.

20 Q. This is one of the reasons why it was appropriate for Prime  
21 Minister Komara to write his letter after the agreement was  
22 signed that you testified about yesterday.

23 A. Yes.

24 Q. Also, is it, in your experience, common for such a clause  
25 to be included in contracts that the government of Guinea would

H4qlthi3

Camara - Cross

1 have engaged in?

2 A. What clause?

3 Q. The one like this, 20.6.

4 MR. KOBRE: Objection, your Honor.

5 THE COURT: Sustained.

6 Q. Now you also testified about yesterday, as I said, the  
7 concerns the committee had over the exclusivity provision.

8 A. Yes.

9 Q. And you also recall testifying that the committee would  
10 have preferred the privatization and restructuring of that  
11 aspect of the agreement.

12 A. Yes.

13 Q. So in that sense, the committee was not rejecting the whole  
14 shareholder agreement.

15 A. Yes.

16 Q. And in that sense, the committee was favoring a different  
17 way to resolve the exclusivity portions of the shareholder  
18 agreement.

19 A. No.

20 Q. Okay. At the meeting on October 10<sup>th</sup> of 2009, are you  
21 aware if the shareholder's agreement was executed?

22 A. No.

23 Q. Take a look at Exhibit 408, if you could.

24 A. When you mean executed, what do you mean?

25 Q. No. Exhibit 408.

H4qlthi3

1 A. Executed.

2 Q. Executed. Signed.

3 A. Yes, it was signed.

4 Q. Okay.

5 MR. GOLDSMITH: Your Honor, I just want to note, it's  
6 almost 12. When would the Court prefer to take a morning  
7 break?

8 THE COURT: Because we got a late start, let me just  
9 ask, does anyone need a break? I'm happy to take one if anyone  
10 would like one.

11 Yes. We'll take a break right now. Thank you so  
12 much, counsel, for raising that.

13 Please be seated. The jury may join Ms. Rojas at the  
14 jury room. The witness may step down.

15 (Continued on next page)

H4qlthi3

(Jury not present)

THE COURT: Thank you so much, Mr. Goldsmith. I appreciate that. And roughly how much longer on your cross?

MR. GOLDSMITH: Half hour?

THE COURT: Great. Thank you for that estimate.

MR. GOLDSMITH: Maybe 45 minutes because of the translations, but I'm trying to go slowly to avoid as many misunderstandings as possible.

THE COURT: Thank you. And I'm not rushing you. I just want an estimate.

And Mr. Kobre, anything to discuss?

MR. KOBRE: No, your Honor.

THE COURT: Mr. Goldsmith, anything to discuss?

MR. GOLDSMITH: I'm sorry, your Honor?

THE COURT: Anything you'd like to discuss?

MR. GOLDSMITH: Nothing at this time.

THE COURT: Thank you.

THE DEPUTY CLERK: All rise.

(Recess)

(In open court; jury not present)

THE COURT: Mr. Goldsmith, I understand you have an issue.

MR. GOLDSMITH: Yes. I have a technical issue. My client --

THE COURT: I'm sorry?

H4q1thi3

1 MR. GOLDSMITH: A technical issue. My client and to a  
2 degree family members watching the court noticed during my  
3 cross-examination --

4 THE COURT: Excuse me. That door is open back there.  
5 Please close the door.

6 THE DEPUTY CLERK: Please be seated. Thank you.

7 THE COURT: Thank you.

8 MR. GOLDSMITH: Thank you. That there were --

9 THE COURT: Wait one minute. It's open again.

10 THE DEPUTY CLERK: Sir, please close the door.

11 THE COURT: Thank you.

12 MR. GOLDSMITH: There were some instances --

13 THE COURT: Sir.

14 We'll give it another try.

15 MR. GOLDSMITH: Thank you. That there were some  
16 instances when the translation of my questions were truncated  
17 or seemed to have been summarized in a form that were not  
18 entirely accurate and may have led to a response that was,  
19 accordingly, not entirely accurate. I asked Mr. Thiam if he  
20 had noted which particular questions and responses. He had  
21 not. I also asked him if they were of particularly significant  
22 import. He said generically some of the responses were, he  
23 felt, important but overall nothing that was overwhelmingly  
24 crucial at this stage.

25 I have discussed this with the government. I will



H4q1thi3

1 also note that I mentioned this morning to the government that  
2 we noticed yesterday during the direct a couple of minor  
3 inconsistencies but in my opinion were entirely inconsequential  
4 to the translation. In response to my telling the government  
5 just now during the break, they suggested that they have no  
6 objection to me continuing my examination from counsel table so  
7 that I might more readily be available to have Mr. Thiam notify  
8 me if there was any change in the translation that he was able  
9 to perceive. Would that be acceptable with the Court?

10 THE COURT: Well, I have no objection to you standing  
11 at counsel table to conduct your examination. That's fine with  
12 me.

13 The jury is ready.

14 Obviously we qualified this interpreter. No counsel  
15 has objected. Is this interpreter going to be with us for  
16 another witness?

17 MR. KOBRE: No, your Honor. So the next -- one  
18 moment, your Honor. I thought I had the answer to that  
19 question, but just one moment.

20 THE COURT: That's a yes or no. Is she or not?

21 MR. KOBRE: She is available. However, she needs to  
22 leave 45 minutes early today so --

23 THE COURT: No. Do we only have this interpreter for  
24 this witness, yes or no? Is she also the interpreter for  
25 another witness?

H4qlthi3

MR. KOBRE: Yes. In part, yes.

THE COURT: Okay. So counsel, I think it would be helpful if I bring in the interpreter alone without the witness and, as gracefully and carefully as I can, review with the interpreter the necessity of making sure that each word and clause is translated, both of a question and an answer, and that there is no summary given by the interpreter of either a question or an answer.

MR. GOLDSMITH: Thank you.

THE COURT: Would that be acceptable to counsel?

MR. KOBRE: Yes, your Honor.

MR. GOLDSMITH: Yes, your Honor.

THE COURT: Okay. Would you ask the interpreter, please, to join us without the witness.

THE DEPUTY CLERK: Yes, your Honor.

THE COURT: Obviously, counsel, to do a translation is a work of art, and to convey meaning effectively, you don't translate a word but you translate a phrase containing words, and sentence structure impacts how you effectively translate, so we all I think are in agreement about that.

Thank you so much for joining us, and I just have a few remarks to make to you.

THE INTERPRETER: Yes, your Honor.

THE COURT: We're all appreciative of how challenging it is to serve as an interpreter between one language and

H4qlthi3

Camara - Cross

1 another and to effectively convey meaning from one language to  
2 another, and we don't mean to suggest in any way that it's  
3 important to translate every word in the same order in which it  
4 is conveyed by a questioner or a witness in order to  
5 effectively convey meaning. But that said, counsel wished me  
6 to raise with you the following: It's important that no  
7 summary of either a question or an answer be given in your  
8 interpretation so that every word, every phrase, the complete  
9 question is translated and, similarly, every word, every  
10 phrase, the complete answer is translated.

11 THE INTERPRETER: Yes, your Honor, of course.

12 THE COURT: Okay. Good. Thank you. And we also know  
13 how tiring it is to stand and to be an interpreter for these  
14 very lengthy proceedings. And of course if you'd like to use a  
15 chair or otherwise if at any point you need a break in order to  
16 make sure that you are doing what you want to do as an  
17 interpreter here, please let us know.

18 THE INTERPRETER: Yes, your Honor.

19 THE COURT: Thank you very much.

20 Bring in the jury. Bring in the witness.

21 (Continued on next page)  
22  
23  
24  
25

H4qlthi3

Camara - Cross

1 (Jury present)

2 THE COURT: Counsel.

3 MR. GOLDSMITH: Thank you.

4 BY MR. GOLDSMITH:

5 Q. When we broke just now, do you recall testifying that  
6 Exhibit 408, the shareholder agreement, had been executed or  
7 signed?

8 A. Yes.

9 Q. And it was signed by the ministers who had the authority to  
10 sign it, correct?

11 A. Yes.

12 Q. And who were the ministers that signed the document?

13 A. There is the minister of justice, Minister Loholamou; the  
14 minister of finance, Mr. Mamadou Sande.

15 Q. Now at the meeting that was held with the technical  
16 committee and the ministers the day before, would there have  
17 been a reason to tell those ministers to not sign the  
18 agreement?

19 MR. KOBRE: Objection.

20 THE COURT: Sustained. Form.

21 MR. GOLDSMITH: Okay.

22 Q. Did the committee at the meeting on October 9<sup>th</sup> or 8<sup>th</sup>  
23 tell those ministers not to sign the agreement?

24 A. The meeting was to provide observations and amendments and  
25 focus on the provisions that were not acceptable. And the

H4qlthi3

Camara - Cross

1 minister had to make a decision that was important to him.

2 Q. Which minister?

3 A. The concerned minister. And following that, the Council of  
4 Ministers.

5 Q. So all of those ministers collectively would have had to  
6 make a decision about the shareholder agreement, correct?

7 A. Absolutely.

8 Q. And in your experience at that time, the prime minister  
9 approved the agreement?

10 MR. KOBRE: Objection.

11 Q. Well, withdrawn. Let me clarify that.

12 At the time the prime minister approved of the agreement.

13 MR. KOBRE: Objection.

14 THE COURT: Overruled.

15 THE INTERPRETER: The interpreter couldn't hear.

16 THE WITNESS: Can your Honor allow me to continue?

17 THE COURT: So if a question can be answered fairly  
18 with a yes or a no, then it should be answered with a yes or a  
19 no. If it cannot be fairly answered with a yes or a no, then  
20 you may give an explanation.

21 Please place the question again.

22 BY MR. GOLDSMITH:

23 Q. Do you recall if the prime minister approved of the  
24 shareholder agreement?

25 A. No.

H4qlthi3

Camara - Cross

1 Q. No, you do not recall or no, he did not approve?

2 A. He didn't approve, because the decision that had to be  
3 made, it's the Council of Ministers that approves it. It's a  
4 collective decision. Once the question had been raised to the  
5 council, the decision of the minister cannot overrule what was  
6 decided at the council.

7 Q. So in other words, the decision of the ministers as a whole  
8 is more powerful than the opinion of the prime minister.

9 A. Absolutely.

10 Q. But is it your testimony today that the prime minister,  
11 Komara, did not approve of this shareholder agreement?

12 A. Yes.

13 Q. Mr. Camara, prior to testimony here today in court and  
14 yesterday in court, you had occasions to meet with agents of  
15 the United States government, correct?

16 A. Yes.

17 Q. And you discussed with them what happened in Guinea in  
18 2009, correct?

19 A. Yes.

20 Q. And you discussed with them a lot of what you testified  
21 about here in court, right?

22 A. Yes.

23 Q. And you were honest with them, right?

24 A. Yes.

25 Q. Do you remember meeting with members of the United States

H4qlthi3

Camara - Cross

1 government as it relates to this trial, on August 5<sup>th</sup> of  
2 2016?

3 A. Yes.

4 Q. And do you recall informing them at that meeting that you  
5 believed that Komara gave verbal approval for the documents at  
6 a cabinet meeting?

7 A. Well, I don't recall, but if they said so, maybe there's a  
8 confusion. They probably didn't -- they might not have  
9 understood properly what I was meaning.

10 Q. So your position is that any prior understanding that you  
11 had told the US government --

12 MR. GOLDSMITH: Do you want to break that up for him?

13 THE INTERPRETER: No. I need the whole context to  
14 translate.

15 Q. -- that the agreement was verbally approved by the prime  
16 minister would have been a misunderstanding?

17 A. There were some bad understandings regarding certain  
18 matters, not everything.

19 Q. Misunderstandings by whom?

20 A. On behalf of the American agents that I meet in the month  
21 of August.

22 Q. Do you recall testifying yesterday about a letter that was  
23 drafted from the prime minister after the shareholder agreement  
24 was executed, signed?

25 A. Yes.

H4qlthi3

Camara - Cross

1 Q. That letter is Exhibit 410, is that correct?

2 A. Can you repeat your question.

3 Q. Document 410, do you recall testifying yesterday about the  
4 letter?

5 A. Yes, that document, Exhibit 401, it's not a letter, it's a  
6 memorandum.

7 Q. No, 410, not 401.

8 A. Ah, sorry.

9 You said 410?

10 Q. Correct.

11 A. Yes.

12 Q. This was the letter that was sent from Prime Minister  
13 Komara after the shareholder agreement was signed, correct?

14 A. Yes.

15 Q. And it expresses concerns about some of the provisions in  
16 the signed shareholder agreement, correct?

17 A. Yes.

18 Q. And it was sent to whom?

19 A. It was sent to the president of the republic, it was sent  
20 to the minister of mines and geology, the minister of mines for  
21 energy and geology, and to the minister of finance.

22 Q. But it was addressed to Minister Barry, correct?

23 A. It was addressed to Mr. Barry, yes.

24 Q. And it was addressed to Minister Barry because he had  
25 authority to deal with the concerns of the prime minister?



H4qlthi3

Camara - Cross

1 A. Because he was the chair of the steering committee of the  
2 president's China investment fund.

3 Q. And when you testified a moment ago that the letter had  
4 been sent to the president, the minister of mines, and the  
5 minister of finance, those individuals were just sent copies,  
6 correct?

7 A. Yes.

8 Q. The letter was not specifically addressed to them.

9 A. Yes.

10 Q. Minister Barry, did he have a role in the negotiations  
11 process for the CIF investment project?

12 A. Yes, his role was he was the chair of the steering  
13 committee of the investment.

14 Q. Does that give him a higher stature or authority than  
15 others in this negotiation?

16 A. Yes, because he's directly responsible to the Council of  
17 Ministers regarding the decisions and the orientations of the  
18 China International Fund.

19 Q. And he was also the same Minister Barry who signed the  
20 master's agreement dated July, as a proxy for Mr. Sande.

21 A. Hmm.

22 THE COURT: Is that yes?

23 THE WITNESS: (In English) Yes.

24 Q. Do you know if Mr. Barry participated on a regular basis in  
25 discussions with the Chinese?

H4qlthi3

Camara - Cross

1 A. Well, each time he was available he would go to the  
2 meetings, and each time he was in Conakry, the prime minister  
3 would contact him to participate in the meetings.

4 Q. Regarding the CIF investment project, correct?

5 A. Yes.

6 Q. Do you know if Mr. Barry traveled to Hong Kong or  
7 Singapore?

8 A. Yes.

9 Q. For the purpose of discussions related to the CIF  
10 investment project?

11 A. Yes.

12 Q. And do you know who appointed Mr. Barry as the chair of the  
13 steering committee on this investment project?

14 A. For that, I believe it's the prime minister.

15 Q. Do you know if Mr. Barry was in conversation with President  
16 Dadis about the discussions with the Chinese?

17 A. Yes, Mr. Barry was the minister at the presidency, like  
18 Mr. Thiam, so he had a high-level status. And even better, he  
19 had personal and privileged relationship with the presidential  
20 committee.

21 THE INTERPRETER: Sorry. The interpreter's mistake.  
22 With the president of the republic.

23 Q. Meaning that they would have meetings with the president,  
24 right?

25 A. Probably, but I was not informed about those meetings and I

H4q1thi3

Camara - Cross

1 didn't participate in those meetings.

2 Q. Do you know if they had meetings individually with the  
3 president regarding the Chinese investment project?

4 MR. KOBRE: Objection.

5 THE COURT: Sustained for form. And foundation.

6 Q. Do you know if President Dadis had any meetings with  
7 Minister Barry regarding the discussions with the Chinese?

8 A. No. No, I'm not aware of this, but it's part of the  
9 standard procedures of the dealing because it is a development  
10 of the affairs with the government and the president cannot be  
11 indifferent and he has to be aware of the various procedures.

12 Q. And would it also be standard procedures for the president  
13 to have meetings with Mr. Thiam when he was the minister of  
14 mines related to the Chinese investment project?

15 A. Yes, Mr. Thiam was, first of all, a minister at the  
16 presidency so it was normal that he would meet Mr. Thiam or  
17 rather that Mr. Thiam would meet the president.

18 Q. As part of his job related to the minister of mines and the  
19 Chinese investment project, Mr. Thiam was required to follow  
20 directions of the presidency.

21 A. Yes.

22 Q. And no one -- withdrawn.

23 And you never felt that Mr. Thiam did not fulfill his  
24 obligations as the minister of mines as it relates to the  
25 Chinese investment project.

H4qlthi3

Camara - Cross

1 MR. KOBRE: Objection.

2 THE COURT: Sustained. I'll certainly let you ask  
3 with respect to a time frame.

4 MR. GOLDSMITH: Oh, sure.

5 Q. You never felt -- let me clear it up.

6 You felt that Mr. Thiam performed his job appropriately as  
7 minister of the mines in discussions related to the Chinese  
8 investment project during 2009.

9 THE COURT: Excuse me. Counsel, could you just begin  
10 that differently. In 2009...

11 MR. GOLDSMITH: Absolutely.

12 Q. In 2009 -- thank you, your Honor -- did you feel that  
13 Mr. Thiam had performed his job as minister of mines  
14 appropriately in regards to the discussions with the Chinese  
15 investment project?

16 A. Partly.

17 Q. And is it fair to say that had Mr. Thiam gone against or  
18 acted against the shareholders agreement in 2009 that it would  
19 have been contrary to his job as the minister of mines?

20 THE COURT: Do you understand that question?

21 THE WITNESS: Could you reformulate this question,  
22 please.

23 Q. If Mr. Thiam, in 2009, had opposed the shareholder  
24 agreement with CIF, that would have gone against his  
25 responsibilities as the minister of mines.

H4qlthi3

Camara - Cross

1 MR. KOBRE: Objection.

2 THE COURT: Sustained.

3 Q. Would you have considered it abnormal for Mr. Thiam to have  
4 voiced opposition to the shareholder agreement in 2009?

5 MR. KOBRE: Objection.

6 THE COURT: Overruled.

7 A. There were provisions that were not following the  
8 directions and orientation of the government.

9 Q. I'm going to ask again, would it have been abnormal --

10 THE COURT: Counsel, I think you need to rephrase the  
11 question. But I'll let you inquire.

12 Q. It was Mr. Thiam's obligations in part, as the minister of  
13 mines, to engage in discussions with the Chinese regarding the  
14 investment project, correct?

15 A. It was the government. But he had an important role, a  
16 really preponderant role.

17 Q. And Mr. Thiam was a point of contact in the discussions  
18 between the Chinese and the Republic of Guinea in furtherance  
19 of the investment project, correct?

20 A. Yes.

21 Q. And as a result of that relationship, would it have been  
22 abnormal for Mr. Thiam to have objected or opposed the  
23 shareholder agreement that was ultimately signed in this case?

24 MR. KOBRE: Objection.

25 THE COURT: Sustained.

H4qlthi3

Camara - Cross

1 Q. Would it have been abnormal from the perspective of the  
2 Chinese if the minister of mines opposed the deal?

3 MR. KOBRE: Objection.

4 THE COURT: Sustained.

5 Q. Would it have been abnormal if the minister of mines, from  
6 the perspective of the Guinean Republic, opposed the deal?

7 MR. KOBRE: Objection.

8 THE COURT: Sustained.

9 Q. In this particular deal would it have seemed abnormal if  
10 Mr. Thiam opposed the shareholder agreement that was executed  
11 in October 2009?

12 MR. KOBRE: Objection.

13 THE COURT: Sustained.

14 Q. Do you recall if Mr. Thiam voiced any opposition to the  
15 shareholder agreement to the prime minister's office?

16 A. To my knowledge, no.

17 Q. Do you recall if Mr. Thiam voiced any opposition to the  
18 agreement to the steering committee?

19 A. Regarding the connection, the relationship between  
20 Mr. Thiam and the steering committee, I was not there so I  
21 don't know what happened during these steering committee  
22 meetings. It was at the ministerial level. It was between two  
23 ministers, and each of them had a role regarding that project.

24 Q. Do you recall testifying yesterday that the ministers, as a  
25 group, were in favor of the investment project with CIF?

H4qlthi3

Camara - Cross

1 A. They were in favor of this investment, yes.

2 Q. And you recall testifying yesterday in fact that as a  
3 group, the ministers of the Republic of Guinea were  
4 enthusiastic about the arrangement with CIF?

5 MR. KOBRE: Objection.

6 THE COURT: Overruled.

7 A. Yes, all the ministers were enthusiastic, and the overall  
8 population as well.

9 Q. And that was your word yesterday in testimony in open  
10 court, "enthusiastic," right?

11 A. Yes.

12 Q. Having testified about all of the agreements that you did  
13 yesterday and today, there was a difference in those agreements  
14 from June until July and ultimately October of 2009. Is that  
15 correct?

16 A. Yes.

17 Q. Is it fair to say that those -- withdrawn.

18 Is it fair to say that any changes in those agreements  
19 reflected the ongoing negotiations and discussions between CIF  
20 and the Republic of Guinea?

21 A. For certain changes, yes, but not for all the changes.

22 Q. And at the time in 2009 did you consider Mr. Thiam to have  
23 done a good and professional job?

24 A. Yes. He did a good job.

25 Q. And he did not have the authority to sign --

H4qlthi3

Camara - Cross

1 A. Yes, it was a good job, but it was not achieved, completely  
2 achieved. He stopped in his pathway.

3 MR. GOLDSMITH: Move to strike the latter portion of  
4 that.

5 THE COURT: I'm going to strike the whole answer from  
6 beginning to end because I think to strike half would be  
7 potentially misleading, but you may inquire further. The jury  
8 shall disregard the answer in its entirety.

9 MR. GOLDSMITH: Thank you, your Honor.

10 BY MR. GOLDSMITH:

11 Q. Regardless of what may have happened after October 2009, do  
12 you believe that Mr. Thiam performed a good professional job in  
13 regards to this agreement?

14 MR. KOBRE: Objection, your Honor.

15 THE COURT: Overruled.

16 Q. In other words --

17 THE COURT: Well, it's withdrawn then. Place a  
18 question.

19 MR. GOLDSMITH: I'll withdraw and try to clarify.

20 Q. Up until --

21 THE COURT: In your view.

22 BY MR. GOLDSMITH:

23 Q. In your view, from January to October of 2009, Mr. Thiam  
24 did a good professional job.

25 A. Yes, he did a good job.



H4qlthi3

1 Q. And Mr. Thiam did not have the authority, in his position  
2 as minister of mines, to execute the shareholder agreement?

3 A. I'm a little confused because Mr. Thiam wrote his initials  
4 on the shareholder agreement. Why didn't he sign it? I don't  
5 know.

6 Q. Okay. But my question is, he did not actually sign the  
7 agreement, right?

8 A. Yeah, he didn't sign the agreement.

9 Q. He did not sign any of the agreements that you discussed  
10 yesterday and today, correct?

11 A. Well, yes.

12 THE COURT: Counsel, how much longer?

13 MR. GOLDSMITH: One or two questions.

14 Q. You never witnessed Mr. Thiam do anything inappropriate in  
15 relation to this agreement.

16 A. Never.

17 MR. GOLDSMITH: No further questions.

18 THE COURT: So, ladies and gentlemen, we're going to  
19 break for lunch. And we'll see you back here at 2:00. Thank  
20 you. Don't discuss the case. You may step down.

21 (Jury not present)

22 (Continued on next page)

H4q1thi3

1 MR. GOLDSMITH: Your Honor --

2 THE COURT: Yes.

3 MR. GOLDSMITH: I apologize for the last couple  
4 questions. I didn't intend to elicit a response that would  
5 violate the Court's prior ruling about after-effects.

6 THE COURT: Mr. Goldsmith, I didn't think you were  
7 attempting to circumvent any ruling whatsoever.

8 MR. GOLDSMITH: Thank you.

9 THE COURT: Thank you for saying that, but it wasn't  
10 in my mind. I think if it were, I'd probably raise it with you  
11 directly.

12 So Mr. Kobre, anything to discuss right now?

13 MR. KOBRE: No, your Honor.

14 THE COURT: Mr. Goldsmith, anything to discuss right  
15 now?

16 MR. GOLDSMITH: No, your Honor.

17 THE COURT: Okay. So it may be premature for the  
18 government to give an estimate with respect to the length of  
19 the trial, but I think we've seen the length of time it takes  
20 to question a witness through an interpreter, and we've had  
21 some delays in getting started these last two mornings. Do you  
22 have a current estimate?

23 MR. KOBRE: Could we just have a moment, your Honor?  
24 It would take 30 seconds.

25 THE COURT: Sure.

H4q1thi3

1 MR. KOBRE: Realistically, your Honor, I think our  
2 best estimate at this point would be the end of the day  
3 tomorrow or it would spill over onto the following day and that  
4 would be Monday, and then it would be at some point on Monday.

5 THE COURT: Okay. So I probably will want to give the  
6 jury guidance about whether we're sitting Friday as soon as I  
7 can comfortably and reliably give that guidance. So I'll raise  
8 this issue again and let counsel talk about it at lunchtime. I  
9 think I'd like to let them know they won't be sitting Friday if  
10 we're comfortable in deciding that. And I think, in all  
11 honesty, with respect to that decision, you should know that  
12 we'd need to get this case submitted to the jury by midday on  
13 Thursday, with all the evidence in.

14 MR. GOLDSMITH: You mean next Thursday.

15 THE COURT: This coming, tomorrow.

16 MR. GOLDSMITH: Submitted to the jury for  
17 deliberations?

18 THE COURT: Submitted to the jury in terms of  
19 testimony, that all testimony concluded, so tomorrow afternoon  
20 we could do summations and charge. So if that's not in the  
21 cards, that all the testimony would be in by around noon  
22 tomorrow so we could have summations -- well, let me say this.  
23 I think 3:00. I would like to tell the jury today, at the end  
24 of the day, whether we're going to sit Friday or not. We're  
25 not going to get to sit Friday if all the testimony isn't

H4q1thi3

1 concluded by 3 p.m. on Thursday.

2 MR. GOLDSMITH: I was confused on that point. Thank  
3 you, your Honor, for clarifying it, yes.

4 THE COURT: Okay. So we'll let you reflect on that  
5 and I'll raise it with you again later today.

6 I also wonder if it wouldn't be appropriate to  
7 instruct the jury this afternoon that the government has the  
8 burden of proving a variety of things in this trial. I'll give  
9 the jury detailed instructions about this later on, but  
10 assuming the government carries its burden of proof with  
11 respect to each of the things I'm going to talk to them about,  
12 they should understand that it is not the government's burden  
13 to prove whether or not the agreement reached between Guinea  
14 and the Chinese entities was beneficial to Guinea or not and  
15 it's not the government's burden to prove that the defendant  
16 had ultimate decision-making authority with respect to whether  
17 Guinea should enter into that agreement or not. So reflect on  
18 that and I'll hear from you before I give that charge.

19 See you at 2:00.

20 THE DEPUTY CLERK: All rise.

21 (Luncheon recess)  
22  
23  
24  
25

H4qWthi4

## AFTERNOON SESSION

2:00 p.m.

(In open court; jury not present)

THE COURT: Counsel, two issues. Any idea what I should be instructing the jury about with respect to Friday?

MR. KOBRE: Your Honor, with almost absolute certainty, the government expects that we could say we would not be able to have all the evidence submitted before the jury by tomorrow afternoon at 3:00.

THE COURT: Good. Thank you. That's the guidance I needed. Any objection to me telling the jury as they leave today that we will not be sitting Friday?

MR. KOBRE: No objection.

MR. GOLDSMITH: No objection.

THE COURT: Great.

Second thing, is there going to be redirect of this witness?

MR. KOBRE: There will, your Honor.

THE COURT: At the conclusion of this witness's testimony, is there any objection to me instructing the jury as I described just before our break?

MR. GOLDSMITH: No, your Honor, from the defense.

MR. KOBRE: No, your Honor.

THE COURT: Good. Thank you.

MR. KOBRE: Could I just raise one issue, your Honor,

H4qWthi4

1 very quickly?

2 THE COURT: Sure.

3 MR. KOBRE: I don't think this presents a problem, but  
4 I just wanted for the Court's information, the witness, Mr.  
5 Camara, mentioned during the break that while he had been in  
6 the bathroom during the lunch break up here, he was approached  
7 by a family member of the defendant and they engaged in very  
8 brief conversation that, from my brief interview of Mr. Camara,  
9 did not touch at all on the substance of his testimony or  
10 relate to it. It was a discussion about family and it was a  
11 several minute-long conversation, and again, aside from the  
12 fact of it, nothing of that conversation that I learned from  
13 Mr. Camara suggests anything particularly concerning.

14 THE COURT: Thank you. And I'm sure you shared that  
15 with defense counsel.

16 MR. KOBRE: I certainly have, your Honor.

17 MR. GOLDSMITH: Yes. Before we had left, I had  
18 mentioned to the family to keep their tones quiet in the  
19 hallways. They speak French amongst themselves, which normally  
20 is not a problem, but obviously the witness is French speaking,  
21 so he understands what they're saying. I was informed by Mr.  
22 Kobre to go admonish the family to not have any interaction  
23 with witnesses. They have not returned, so if time permits,  
24 I'll go do that now.

25 THE COURT: I'll let you have your team take care of

H4qWthi4

1 that.

2 MR. GOLDSMITH: Thank you.

3 THE COURT: Thank you. I appreciate that. There  
4 obviously should be no contact whatsoever between witnesses and  
5 family members.

6 OK. We have a jury. Bring in the witness.

7 Bring in the jury.

8 (Continued on next page)

H4qWthi4

Camara - Redirect

1 (In open court; jury present)

2 THE COURT: Counsel.

3 MR. KOBRE: Thank you, Judge.

4 DAOUDA CAMARA, resumed.

5 REDIRECT EXAMINATION

6 BY MR. KOBRE:

7 Q. Mr. Camara, on cross-examination, defense counsel asked you  
8 some questions about some other agreements between the Republic  
9 of Guinea and other mining companies. Do you remember that,  
10 those questions?

11 A. Yes.

12 Q. In particular, some of those that he mentioned were Rio  
13 Tinto and BHP?

14 A. Yes.

15 Q. Did any agreements with those companies involve the  
16 creation of a national asset company or a national company  
17 containing mining rights?

18 A. No.

19 Q. You described on both direct and on cross-examination the  
20 different types of licenses. What type of licenses did those  
21 agreements involve?

22 A. The research license leaves the permit to realize all the  
23 activities on the, on the ground and underground to do research  
24 in order to start to be a mode to extract minerals.

25 Q. And what --



H4qWthi4

Camara - Redirect

1 A. From a commercial, an economic point of view.

2 Q. My specific question is, the Rio Tinto and BHP agreements  
3 that you talked about on cross-examination, what types of  
4 licenses were those; which category does that fall into?

5 A. It was applying to the concessions.

6 Q. And are concessions typically limited to a particular  
7 geographical area?

8 A. What -- could you reformulate your question? What did you  
9 mean by geographic area?

10 Q. In other words, are concessions typically confined to a  
11 particular area within the Republic of Guinea as opposed to  
12 applying generally to all, the entire Republic of Guinea, the  
13 entire landmass?

14 A. It's -- no. It's the whole Republic of Guinea, that  
15 includes mining land.

16 Q. Right. And are concessions typically in designated areas  
17 that are agreed upon, or do they apply -- a particular  
18 concession would be covering the entire Republic of Guinea?

19 A. No. The concession applies to a restricted reserve in  
20 determining zone for determined period of time.

21 Q. And when there's a concession, where is it described what  
22 the particular geographical area is that is the subject of the  
23 concession?

24 A. The concession is granted within the limitations of some  
25 restrictions in the longitude and the latitudes.

H4qWthi4

Camara - Redirect

1 Q. And where are those longitudes and latitudes spelled out,  
2 if anywhere?

3 A. It's formulated in the act that grants the concession; that  
4 is, the decree that grants the concession.

5 Q. The shareholders agreement that we've talked about,  
6 Government Exhibit 408, does that contain any geographical  
7 limitations with respect to the assets of the national mining  
8 company?

9 A. No, but if you need some comments, I can give you some  
10 comments.

11 Q. Well, let me just ask, are there geographic limitations  
12 with respect to the mining rights that would be granted under  
13 the shareholders agreement?

14 A. Could you ask that again?

15 Q. Sure. Are there geographic limitations to the rights that,  
16 the mining rights granted to the national mining company under  
17 the shareholders agreement?

18 A. No, but if you want me to provide you with comments, I can  
19 add some comments.

20 Q. Sure.

21 THE COURT: No.

22 MR. KOBRE: I understood the witness's question to  
23 be -- OK. Let me ask another question.

24 Q. So if I'm understanding you correctly, the rights that are  
25 granted under the shareholders agreement apply to all mining

H4qWthi4

Camara - Redirect

1 rights in the Republic of Guinea?

2 MR. GOLDSMITH: Objection.

3 THE COURT: Overruled.

4 A. It's the whole Republic of Guinea where there are  
5 activities in the mining areas.

6 Q. OK. You were also asked some questions on  
7 cross-examination relating to the granting of extensions for  
8 exploitation permits.

9 A. Yes.

10 Q. And can you just briefly describe, why would an extension  
11 to an exploitation permit be necessary?

12 A. An exploitation license?

13 Q. Yes.

14 A. And regarding the license of exploitation, it's a license  
15 that allows extensions if the reserves, which are being  
16 determined and agreed with *pari pari*, if it's still the  
17 reserves need to be extended to be exploited.

18 Q. And is that because there's a time limitation to the  
19 initial license?

20 A. Yes, it regards the timing because it, within the time  
21 limit it has expired and there are still reserves on that, in  
22 the perimeter and the area of that mineral, then the government  
23 gets an extension to continue the exploitation. So referring  
24 to Anglo-Saxon terms, the mines are not exhausted. So in  
25 French now, if the mines are not exhausted, we can get an

H4qWthi4

Camara - Redirect

1 extension to continue the exploitation.

2 Q. And who had the power to grant those extensions?

3 A. It's the minister of mines, when there is a license of  
4 exploitation.

5 Q. Could the minister of mines grant that extension solely, by  
6 himself?

7 A. According to the mining code, yes.

8 Q. And you were also asked some questions specifically about  
9 concessions, and I think you testified that the president would  
10 need to sign off on a concession?

11 A. He's the only one who has the right to sign for  
12 concessions.

13 Q. Does the minister of mines have a role in the granting of  
14 concessions?

15 A. He prepares the technical file and also the argumentation  
16 in order to facilitate the president of the republic's  
17 decision.

18 Q. Does that include giving advice about whether a concession  
19 should be granted or not?

20 A. Yes, naturally it's within the conclusions of the report of  
21 the minister of mines.

22 Q. You were asked some questions regarding Government Exhibit  
23 401. Can you take a look at that, please?

24 A. Yes.

25 Q. And the date, what's the date on that agreement?

H4qWthi4

Camara - Redirect

1 A. It's June 6, 2009.

2 Q. And you were asked some questions about how long before  
3 that date negotiations with CIF had begun. Do you recall that?

4 A. Yes.

5 Q. Were you personally involved at all in any negotiations  
6 that preceded this agreement, any negotiations with  
7 representatives of CIF?

8 A. No.

9 Q. Now, if you could just take a look at Government Exhibit  
10 402.

11 A. Yes.

12 Q. And in particular, if you could focus on the two pages that  
13 defense counsel showed you, the two pages that come after the  
14 signature page. Do you see those two pages that defense  
15 counsel handed up earlier?

16 A. Yes.

17 Q. And if I'm correct, you're looking at the two decrees?

18 A. Yes.

19 Q. Could you describe, what are those two decrees? Just, what  
20 are they?

21 A. This decree regards the granting of a group of villages  
22 that CBG, another mining company, had organized.

23 Q. Can you explain that? Why --

24 A. Those installations were provided to China International  
25 Fund in order to facilitate the construction and the better

H4qWthi4

Camara - Redirect

1 usage -- to a better management.

2 Q. What was China International Fund being given in that  
3 document?

4 A. It's the group of buildings and facilities that are within  
5 that group of buildings.

6 Q. Do you know what China International Fund would use these  
7 buildings for?

8 A. It would be to let its own stuff stay there and to organize  
9 offices and other facilities.

10 Q. So it would be like a base for their operations in Guinea?

11 A. Yes, like a live base.

12 Q. And the second decree, is that for similar purposes?

13 A. Yes. It's more or less similar because it is to give a  
14 space to CIF to stock its materials and its tools to work on  
15 the project.

16 Q. Now, on cross-examination, defense counsel pointed out that  
17 those documents are signed by Boubacar Barry. Is that right?

18 A. Yes.

19 Q. Why would Boubacar Barry be signing these decrees?

20 A. Because he's the minister in charge of construction, the  
21 management of the land, and also the public assets.

22 Q. Would that be a document that would be signed by the  
23 minister of mines on occasion, that sort of document?

24 A. Under normal conditions, the minister of mines was a --  
25 would have to sign this document with CIF, and it would be --

H4qWthi4

Camara - Redirect

1 it would have to be signed -- Minister Boubacar Barry, these  
2 others, with Minister Boubacar Barry. These are the two  
3 ministers that had to sign that because the facilities of CBG  
4 village are under the supervision of the minister of mines.

5 Q. So --

6 A. So if he's involved, he has to sign with Mr. Boubacar  
7 Barry.

8 Q. But I'm focused just on these two decrees. Just the two  
9 decrees that relate to CIF, based on your experience with the  
10 government, which minister would be most appropriate to sign  
11 those documents?

12 MR. GOLDSMITH: Objection. Asked and answered.

13 THE COURT: Overruled.

14 A. As I mentioned, for the first document, which is the decree  
15 No. 1426, it's the two ministers who were supposed to sign,  
16 sign this. And to the extent perhaps the minister of finance  
17 might be also able to sign, because a decree can be signed by  
18 two or three ministers.

19 Q. OK.

20 A. For the second decree, normally it's only the Minister  
21 Boubacar Barry.

22 Q. And why is that?

23 A. Because he's in charge of and is a co-owner of the  
24 installations that are in charge for the CIF.

25 Q. OK. You were asked on cross-examination whether the

H4qWthi4

Camara - Redirect

1 defendant, Mr. Thiam, properly performed his role or duty as  
2 minister of mines. Do you remember that?

3 A. Yes.

4 Q. And you said, your answer was "partly."

5 A. Yes.

6 Q. Can you explain in what part you do not believe that the  
7 defendant, Mr. Thiam, properly performed his role as minister  
8 of mines?

9 A. There are two main parties. They are the guidelines and  
10 instructions that were given by the prime minister, following  
11 the council of ministers of October. These instructions should  
12 have been mentioned in a new document in order to be submitted  
13 to other signatures.

14 Secondly --

15 Q. Could I stop you there. Could you just explain that? What  
16 should have been done differently?

17 A. As I mentioned, the modifications that were suggested at  
18 the council of ministers and that were presented to  
19 Mr. Boubacar Barry, the minister of mines and the minister of  
20 finance were not mentioned in the finalized document and  
21 reviewed and corrected.

22 Secondly, secondly, the document didn't follow the legal  
23 procedure of, under Guinean law, in order to make a document  
24 applicable and presentable to all parties. And it's a matter  
25 of the supreme court, of the approval by the parliament, of the



H4qWthi4

Camara - Redirect

1 signature by the president of the republic, and the publication  
2 of the whole agreement in the official journal of the Republic  
3 of Guinea.

4 Q. And what part of these issues that you're talking about now  
5 do you believe Mr. Thiam, the defendant, should have done  
6 differently?

7 A. He cannot do in a different way; that's what is presented  
8 by the law. That's what the law says, he doesn't do anything  
9 that apply or what is the law or under the instructions of the  
10 council of ministers.

11 Q. And what was the instruction of the council of ministers in  
12 this case?

13 A. The instructions are the instructions that are mentioned in  
14 the letter of Mr. Prime Minister and the guidelines.

15 Q. OK. Why don't we just take a look at that. If you can  
16 take a look at Government Exhibit 410.

17 MR. KOBRE: And if we can publish for the jury,  
18 Mr. Beer, Government Exhibit 410-T. And if we can just enlarge  
19 starting from Roman numeral I down to the end, the exhibit  
20 sticker.

21 Q. Do you see that, Mr. Camara?

22 THE COURT: It's not on the screens.

23 THE INTERPRETER: It's not on the screen here.

24 THE COURT: So take it off the screens -- OK. It came  
25 back on the screens now. Thank you very much.

H4qWthi4

Camara - Redirect

1 BY MR. KOBRE:

2 Q. Mr. Camara, do you see -- you can feel free to look at the  
3 French version, Government Exhibit 410, if that's easier for  
4 you.

5 A. Yes.

6 Q. And let me focus you on Roman numeral I where it says,  
7 "Following this presentation, directives were given on the  
8 essential issues that would be the subject of new discussions."  
9 Do you see where I'm reading from?

10 A. Yes.

11 THE COURT: It has to be translated.

12 THE INTERPRETER: OK.

13 A. Yes.

14 Q. And what were those directives?

15 A. These are the directives that are, guidelines that are  
16 listed under point 1, 2, 3, 4, until point No. 5.

17 Q. OK.

18 A. Plus 2 and 3.

19 Q. OK. On page 2 of that document --

20 A. Yes.

21 MR. KOBRE: And Mr. Beer, if we can just go to page 2  
22 and enlarge points 2 and 3.

23 Q. And are these the directives concerning the national asset  
24 company and the exclusivity provision?

25 A. Yes.

H4qWthi4

Camara - Redirect

1 Q. And so when you said before -- what was it that the  
2 defendant, Mr. Thiam, should have done differently with respect  
3 to these directives?

4 A. No. It's the guidelines -- he didn't have to do anything  
5 differently; he just had to put them in the application.

6 Q. He had to do what?

7 A. To apply them.

8 Q. He should have applied these directives?

9 A. Yes.

10 Q. And based on your review of the final, signed shareholder  
11 agreement, did he?

12 A. Yes, he didn't do. He didn't do. That's why I said he  
13 worked well, but he didn't finish this job.

14 Q. OK. And is that because he didn't apply these directives?

15 MR. GOLDSMITH: Objection.

16 THE COURT: Overruled.

17 You must translate.

18 THE INTERPRETER: Is that because?

19 BY MR. KOBRE:

20 Q. Is that because he did not apply these directives?

21 A. Yes, precisely.

22 Q. Do you know if the defendant, Mr. Thiam, during the period  
23 of negotiations with CIF in 2009, received any money from,  
24 personally, personally from CIF?

25 A. No, I didn't see and I didn't hear anything.

H4qWthi4

Camara - Redirect

1 Q. Do you know if the defendant, Mr. Thiam, during that same  
2 period of time, received any money personally from Mr. Sam?

3 MR. GOLDSMITH: Objection. Asked and answered.

4 THE COURT: Overruled.

5 A. No, I don't know either.

6 Q. And you were asked about your view of the defendant,  
7 Mr. Thiam's fulfillment of his professional responsibilities as  
8 minister of mines of the Republic of Guinea from what you were  
9 able to see in 2009. Do you remember being asked about that?

10 A. Yes, I remember.

11 Q. If I were to tell you that just weeks before the signing of  
12 the shareholders agreement Mr. Thiam personally --

13 MR. GOLDSMITH: Objection.

14 THE COURT: Let the question be placed.

15 Q. If I were to tell you that just weeks before the signing of  
16 the shareholders agreement Mr. Thiam personally received money  
17 from either CIF or from Mr. Sam, would that change your view on  
18 whether Mr. Thiam was acting in the proper, professional role  
19 as minister of mines of the Republic of Guinea during the  
20 period of time we're discussing?

21 MR. GOLDSMITH: Objection.

22 THE COURT: Overruled.

23 A. If I have the evidence, yes.

24 Q. And why?

25 A. Yes, because the mandate and the trust that is, that he is

H4qWthi4

Camara - Redirect

1 supposed to have don't fulfill these ethical perspective.

2 Q. Just a few more questions, Mr. Camara. You were asked on  
3 cross-examination about some meetings that were attended by  
4 Mr. Barry concerning the CIF deal?

5 A. Yes.

6 Q. Were those meetings that you personally attended as well?

7 A. Some of those meetings.

8 Q. OK. And the meetings that you were personally at that  
9 Mr. Barry also attended, I'm going to focus on those, was  
10 Mr. Thiam also in attendance at those meetings?

11 A. Yes, at the few meetings that I mentioned earlier.

12 Q. The meetings that you testified about during your direct  
13 examination when I questioned you earlier?

14 A. The questions that the defendant's attorney asked me about,  
15 that's what I'm referring to.

16 Q. OK. And Mr. Thiam -- the meetings that you were personally  
17 present at, Mr. Thiam was at as well?

18 A. Yes.

19 Q. If I could just ask you to take a look at Government  
20 Exhibit 410-T -- 410, rather.

21 MR. KOBRE: And Mr. Beer, if we could go to point 3 on  
22 page 1.

23 A. Yes.

24 Q. You were asked some questions about whether the prime  
25 minister, Mr. Komara, agreed that the shareholders agreement

H4qWthi4

Camara - Redirect

1 should be signed.

2 A. Yes.

3 Q. Did that come along with certain directives as well?

4 A. The directives came over to bring amendments to the  
5 agreement that had been signed. If those amendments were not  
6 integrated, if they were not mentioned, the document had no  
7 value on the legal plan at the level of the government.

8 Q. And were those directives -- when were those directives  
9 first given to the people doing the negotiations?

10 A. They were presented during the council of ministers of the  
11 8th.

12 Q. And looking at point 3 on Government Exhibit 410-T, was  
13 that one of the directives? And let me just read it.

14 A. Yes, that's it.

15 Q. So one of the directives was that, and I'll just read, "The  
16 right of first refusal that the partner requests shall not be  
17 granted."

18 A. Yes.

19 Q. And the partner refers here to CIF?

20 A. Yes. It refers to the partner, yes, CIF, and also China  
21 Sonangol.

22 MR. KOBRE: Thank you. No further questions.

23 THE COURT: Recross.

24 MR. GOLDSMITH: Thank you, your Honor.

25 RECROSS-EXAMINATION

H4qWthi4

Camara - Recross

1 BY MR. GOLDSMITH:

2 Q. On redirect, you were asked questions about concessions?

3 A. Yes.

4 Q. The shareholders agreement is not a concession agreement,  
5 correct?

6 A. It is not. The shareholder agreement is not an agreement  
7 for the concessions, but it mentions some of the matters that  
8 are related to the existing concessions, because regarding the  
9 national asset company and regarding the right of exclusivity,  
10 all the companies in which the government obtains shares are  
11 companies that have concessions, and what comes from those  
12 concessions is redeposited into the national asset company. So  
13 it's true that there are no concessions in the shareholders  
14 agreement, that's true, but the stakes mentioned by the  
15 shareholders agreement for the companies that are in action, it  
16 relates to the consequences of the concession or the  
17 concessions.

18 Q. In other words, the shareholders agreement does not specify  
19 a concession; it just discusses the parties' intent about what  
20 they may want to do in the future?

21 A. Absolutely. It doesn't mention the concessions, because  
22 there is a long pathway before reaching a concession. It takes  
23 a lot of work and a lot of money, and it requires a lot of  
24 time, so there are no concession mentioned in the shareholders  
25 agreement, apart from the benefits that are coming out of

H4qWthi4

Camara - Recross

1 the -- from the existing concessions.

2 Q. Thank you.

3 You also testified on redirect about your beliefs of  
4 Mr. Thiam's performance while he was the minister of mines. Do  
5 you remember that?

6 A. Yes, yes.

7 Q. You testified earlier today you felt Mr. Thiam did a good  
8 job as the minister --

9 A. Yes.

10 Q. -- but you testified on redirect that you feel he could  
11 have done a better job on --

12 A. Yes.

13 Q. -- on including this technical committee's comments in the  
14 final shareholders agreement?

15 A. Of the ministerial directives.

16 Q. And the concerns of the technical committee --

17 A. That's it.

18 Q. Those concerns of the technical committee were presented at  
19 a meeting on October 8 of 2009, correct?

20 A. Yes, that's it.

21 Q. And at that meeting, it was the council of ministers,  
22 right?

23 A. Precisely.

24 Q. And Minister Loholamou was at the meeting?

25 A. Yes, Mr. Loholamou was at the meeting.



H4qWthi4

Camara - Recross

1 Q. Mr. Sande was at the meeting as well?

2 A. Mr. Sande was there too.

3 Q. Ministers Loholamou and Sande both signed the shareholders  
4 agreement on October 10, correct?

5 A. Yes.

6 Q. You also stated that you felt the final shareholder  
7 agreement had not gone through all of the normal steps under  
8 parliamentary procedure that it should have gone, right?

9 A. Yes, but not only the parliamentarian procedures, but also  
10 the legal procedures and because it involved the supreme court  
11 and the presidency as well.

12 Q. Do you recall testifying yesterday that in 2009, the normal  
13 government procedures were not in place?

14 A. In fact, I said all the institutions. I didn't say all the  
15 procedures. All the institutions of the republic were not in  
16 place.

17 Q. You also testified on redirect that if you had been given  
18 evidence, only if you had given evidence that the defendant had  
19 taken some money personally in 2009 would you have felt that he  
20 did not do a professional job. Do you recall saying that?

21 A. Yes.

22 Q. You had no evidence that he had taken any such payments in  
23 2009, correct? Let me rephrase that.

24 In 2009, you had no evidence that he had taken such  
25 payment?

H4qWthi4

Camara - Recross

1 A. No.

2 Q. And in 2009, you had no reason to suspect that he had taken  
3 such a payment?

4 A. Well, yes.

5 MR. GOLDSMITH: No further questions.

6 THE WITNESS: But I would like to clarify.

7 THE COURT: I'm sorry. No. You need a question in  
8 order to provide an answer.

9 THE WITNESS: OK.

10 MR. KOBRE: No further questions.

11 THE COURT: You may step down.

12 (Witness excused)

13 THE COURT: Ladies and gentlemen, before the  
14 government calls its next witness, I want to give you a brief  
15 instruction, if I could have your attention. Thank you.

16 At the end of this case, I'm going to give you  
17 detailed instructions as to the law, and I will be describing  
18 to you all of the things that the government bears the burden  
19 of proof of showing to you. As I've told you before, it  
20 carries the burden of proving things to you beyond a reasonable  
21 doubt, and I'm going to list each of those things it must prove  
22 to you beyond a reasonable doubt before you would be able to  
23 determine whether or not the defendant was guilty of the crimes  
24 with which he's charged here.

25 There are a couple of topics, though, that have been

H4qWthi4

Camara - Recross

1 raised in the examination of this witness that I want to make  
2 sure you understand are not going to be part of the  
3 government's burden of proof.

4 The government has no burden to prove whether or not  
5 the agreement between the Republic of Guinea and any Chinese  
6 person or entity or group of entities was good or bad for  
7 Guinea. You will not have to determine that. The government  
8 has no burden of proving to you beyond a reasonable doubt  
9 whether those agreements were good or bad for Guinea.

10 Second thing, the government will have no burden of  
11 proof with respect to showing you that the defendant was, for  
12 instance, the final decision maker with respect to any of those  
13 events that this witness has testified about; that is, the  
14 entry into any agreements between the Republic of Guinea and  
15 these Chinese entities. There's no burden of proof here that  
16 the government show that the defendant was the final decision  
17 maker with respect to whether Guinea should enter into those  
18 agreements.

19 OK. Thank you.

20 The government may call its next witness.

21 MR. KOBRE: Yes, your Honor. The government calls  
22 Special Agent Brian Ennesser.

23 BRIAN ENNESER,

24 called as a witness by the Government,

25 having been duly sworn, testified as follows:

H4qWthi4

Ennesser - Direct

1 DIRECT EXAMINATION

2 BY MR. KOBRE:

3 Q. Where do you work?

4 A. I'm employed at 26 Federal Plaza with the FBI.

5 Q. And how long -- what is your position with the FBI?

6 A. I'm a special agent.

7 Q. How long have you been a special agent with the FBI?

8 A. 11 years now.

9 Q. Are you currently assigned to a particular unit or  
10 division?

11 A. Yes, I'm assigned to squad C42, the international  
12 corruption unit.

13 Q. And in that squad, what are some of your duties and  
14 responsibilities?

15 A. We investigate the Foreign Corruption Practice Act, FCPA,  
16 kleptocracy, and the antitrust.

17 Q. You mentioned earlier that you work at 26 Federal Plaza.  
18 Are you based here in New York?

19 A. Yes.

20 Q. Can you tell us what you did before joining FBI about 11  
21 years ago?

22 A. I was employed -- well, I was a United States Army officer,  
23 and I was discharged approximately around 2006, honorably.

24 Q. What rank did you obtain in the military?

25 A. Captain.

H4qWthi4

Ennesser - Direct

1 Q. Special Agent Ennesser, calling your attention to the date  
2 of December 13, 2016, were you working that day?

3 A. Yes.

4 Q. Generally speaking, can you describe what you did that day?

5 A. I was part of an arrest that took place with the squad. I  
6 provided -- my details during, my duties during the arrest was  
7 I was providing security, and then I also partook in the  
8 movement and transportation of the arrest, arrested subject.

9 Q. Thank you. And who did you arrest that day?

10 A. Mr. Mahmoud.

11 Q. Do you know his last name?

12 A. Thiam, Mr. Thiam, Mahmoud Thiam.

13 Q. Do you see that person in the courtroom here today?

14 A. Yes, I do.

15 Q. Can you please point him out and identify an item of  
16 clothing?

17 A. He's wearing a gray suit with a dark blue tie, directly  
18 right behind you.

19 MR. KOBRE: May the record reflect, your Honor, that  
20 the witness has identified the defendant.

21 THE COURT: Yes.

22 Q. We're not going to talk about the arrest, but after that,  
23 what was the next part of your day in terms of relating to this  
24 investigation?

25 A. After the arrest took place?

H4qWthi4

Ennesser - Direct

1 Q. Yes.

2 A. We were back at 26 Federal Plaza, and I set up the  
3 interview room where Mr. Thiam was interviewed.

4 Q. Did you participate in an interview with the defendant?

5 A. Yes.

6 Q. And was that interview recorded?

7 A. Yes.

8 Q. Via video or audio?

9 A. It was a closed-circuit video and audio system.

10 Q. And where did the interview take place?

11 A. It took place at 26 Federal Plaza on the 23rd floor.

12 Q. Did you have any involvement in the recording of that  
13 video?

14 A. Yes. I, I went and prepared the video-recording equipment  
15 prior to the interview taking place, made sure that the camera  
16 was on and worked and the room was set up, and then I waited  
17 for Agent Martinez to bring the subject to the room, and then  
18 once he was set up in the room I went, stepped back out and  
19 pressed the record button.

20 Q. Were you present during the entirety of that interview?

21 A. Yes.

22 Q. After the interview was concluded, what did you do in terms  
23 of the recording?

24 A. We downloaded it to a disk and then I gave those disks to  
25 Agent Martinez.

H4qWthi4

Ennesser - Direct

1 Q. When you say we downloaded it, who downloaded it?

2 A. Correction. I downloaded the disk from the digital  
3 recorder, and then I gave those disks to Mr. Martinez, Agent  
4 Martinez.

5 MR. KOBRE: At this point, my colleague, Ms. Laryea,  
6 is approaching the witness with both Government Exhibits 801  
7 and 801A, what are marked as those exhibits.

8 THE WITNESS: Uh-huh, yes.

9 Q. Do you recognize those?

10 A. Yes, I do.

11 Q. And what are they? Tell us by number, please.

12 A. 801 is two DVDs, and 801A is a single DVD, both initialed  
13 by me.

14 Q. What is 801, starting with that?

15 A. 801 is a disk that has copies of -- well, that has a copy  
16 of the interview.

17 Q. Does 801 taken together with those two disks contain the  
18 entirety of the video recording of the interview that you  
19 conducted on December 13, 2016?

20 A. Yes.

21 Q. And what is 801A?

22 A. 801A is excerpts, or clips, that were taken from 801.

23 Q. So they're simply copied segments?

24 A. Yes.

25 Q. And how do you know that that's what is contained on those

H4qWthi4

Ennesser - Direct

1 disks?

2 A. I viewed 801, both disks, and then I viewed 801A and the  
3 clips, and the clips match up from 801.

4 Q. Do the video and audio recordings on both 801 and 801A  
5 truly and accurately reflect what you observed when you  
6 personally participated in the interview of defendant on  
7 December 13, 2016?

8 A. Yes.

9 MR. KOBRE: Your Honor, the government at this point  
10 offers Government Exhibit 801A.

11 THE COURT: Received.

12 (Government Exhibit 801A received in evidence)

13 MR. KOBRE: Nothing further.

14 THE COURT: Cross-examination.

15 MR. GOLDSMITH: No questions.

16 THE COURT: You may step down.

17 (Witness excused)

18 THE COURT: We'll take our midafternoon recess, ladies  
19 and gentlemen.

20 You can leave those right there.

21 THE WITNESS: Yes, your Honor.

22 THE COURT: Ladies and gentlemen, let Ms. Rojas know  
23 when you're ready to resume.

24 (Continued on next page)

25



H4qWthi4

(In open court; jury not present)

THE COURT: Mr. Kobre, anything else we need to discuss?

MR. KOBRE: Yes, your Honor, briefly.

MR. DiMASE: Your Honor, I just wanted to alert the Court that there was an article published in the New York Times today that does reference this case. It's not primarily about this case, but there is a reference to it in several, maybe a paragraph, approximately, concerning the case. The article is not clearly about this case, so there's a possibility that a juror might wind up reading it without knowing that it addresses the case. So I wanted to let your Honor know so you can take any appropriate measures.

THE COURT: OK. Counsel, why don't I instruct the jury as they're leaving today. Can you tell me what the general topic of the article is, or a headline.

MR. DiMASE: Yes, your Honor. If you want me to pull it up, I can give that to you.

Your Honor, the name of the article or the title of the article is "Bribe Cases, a Secret Jared Kushner Partner and Potential Conflicts." At least that's what the digital version of the story is entitled.

THE COURT: OK, counsel. I'm wondering how I instruct the jury with respect to that. I think perhaps a general instruction about avoiding any news coverage whatsoever about

H4qWthi4

1 the general topic of bribery would not only capture this but be  
2 entirely appropriate in the case and not suggest that there's  
3 anything about Guinea or the defendant and would keep it nice  
4 and vague and yet be protective. Does that sound about right?

5 MR. GOLDSMITH: Sounds good.

6 MR. DiMASE: That's fine, your Honor.

7 THE COURT: OK. I'll do that. Please, at 5:00, I'm  
8 going to tell them about our schedule and I'll include this  
9 instruction, and if I forget, please feel free to stand and  
10 remind me.

11 Mr. Goldsmith, anything?

12 MR. GOLDSMITH: I just wanted to know if the  
13 government plans on showing 801A this afternoon.

14 MR. KOBRE: No, we do not, your Honor.

15 MR. GOLDSMITH: OK. Fine. I just wanted to get a  
16 chance to see it before.

17 THE COURT: Good. I assume since everybody's  
18 cooperating so well together that you'll feel free to tell each  
19 other in advance about the order of witnesses and length of  
20 time, etc., so everyone can feel prepared.

21 MR. KOBRE: Of course, your Honor.

22 MR. GOLDSMITH: Thank you, your Honor.

23 THE COURT: Thank you. Good. Let's take a brief  
24 recess.

25 (Recess)

H4qWthi4

1 THE COURT: Please be seated.

2 Bring in the jury.

3 (In open court; jury present)

4 The government may call its next witness.

5 MR. DiMASE: Your Honor, prior to calling its next  
6 witness, the government would like to read two stipulations  
7 into the record. First is Government Exhibit 1407, and I'll  
8 start after the introductory paragraph.

9 "Government Exhibit 301 is a CD containing true and  
10 correct records maintained by the Hong Kong and Shanghai  
11 Banking Corporation in Hong Kong, HSBC Hong Kong, pertaining to  
12 HSBC Hong Kong premiere account No. 607121480888, in the name  
13 of Mr. Thiam Mahmoud and an associated HSBC premiere credit  
14 card account, No. 5185420006889766, also in the name of  
15 Mr. Thiam Mahmoud, and containing the following:

16 "a. A folder labeled Government Exhibit 301A  
17 containing true and correct records pertaining to the  
18 opening-account records for HSBC Hong Kong premiere account No.  
19 607121480888 in the name of Mr. Thiam Mahmoud;

20 "b. A folder labeled Government Exhibit 301B  
21 containing true and correct records pertaining to the bank  
22 account statements for HSBC Hong Kong premiere account No.  
23 607121480-888 in the name of Mr. Thiam Mahmoud;

24 "c. A folder labeled Government Exhibit 301C  
25 containing true and correct records pertaining to the wire

H4qWthi4

1 transfer records and supporting documentation for HSBC Hong  
2 Kong premiere account No. 607121480888 in the name of Mr. Thiam  
3 Mahmoud;

4 "d. A folder labeled Government Exhibit 301D  
5 containing true and correct records pertaining to HSBC premiere  
6 credit card account number 5185 4200 0688 9766, also in the  
7 name of Mr. Thiam Mahmoud.

8 "Government Exhibit 302 is a CD containing true and  
9 correct records maintained by HSBC Hong Kong pertaining to HSBC  
10 Hong Kong premiere account No. 047565429888 in the name of  
11 Mr. Pa Sam Nang and containing the following:

12 "a. A folder labeled Government Exhibit 302A  
13 containing true and correct records pertaining to the  
14 opening-account records for HSBC Hong Kong premiere account  
15 number 047565429888 in the name of Mr. Pa Sam Nang;

16 "b. A folder labeled Government Exhibit 302B  
17 containing true and correct records pertaining to bank account  
18 statements for HSBC Hong Kong premiere account number  
19 047565429888 in the name of Mr. Pa Sam Nang;

20 "c. A folder labeled Government Exhibit 302C  
21 containing true and correct records pertaining to the wire  
22 transfer records and supporting documentation for HSBC Hong  
23 Kong premiere account No. 047565429888 in the name of Mr. Pa  
24 Sam Nang;

25 "3. Government Exhibit 303 is a CD containing true

H4qWthi4

1 and correct records maintained by HSBC Hong Kong pertaining to  
2 HSBC Hong Kong premiere account No. 627830581-888 in the name  
3 of Ms. Lo Fung Hung and Mr. Pa Sam Nang, and containing the  
4 following:

5 "a. A folder labeled Government Exhibit 303A  
6 containing true and correct records pertaining to the  
7 opening-account records for HSBC premiere account No.  
8 627830581888 in the name of Ms. Lo Fung Hung and Mr. Pa Sam  
9 Nang;

10 "b. A folder labeled Government Exhibit 303B  
11 containing true and correct records pertaining to the bank  
12 account statements for HSBC Hong Kong premiere account number  
13 627830581888 in the name of Ms. Lo Fung Hung and Mr. Pa Sam  
14 Nang;

15 "c. A folder labeled Government Exhibit 303C  
16 containing true and correct records pertaining to the wire  
17 transfer records and supporting documentation for HSBC Hong  
18 Kong premiere account No. 627830581888 in the name of Ms. Lo  
19 Fung Hung and Mr. Pa Sam Nang;

20 "4. Government Exhibit 304 is a CD containing true  
21 and correct records maintained by HSBC Hong Kong pertaining to  
22 HSBC Hong Kong asset vantage account No. 485278956888 in the  
23 name of Mr. Wang Xiang-Fei and containing the following:

24 "a. A folder labeled Government Exhibit 304A  
25 containing true and correct records pertaining to the

H4qWthi4

opening-account records for HSBC Hong Kong asset vantage  
account No. 485278956888 in the name of Mr. Wang Xiang-Fei;

"b. A folder labeled Government Exhibit 304B  
containing true and correct records pertaining to bank account  
statements for HSBC Hong Kong asset vantage account No.  
485278956888 in the name of Mr. Wang Xiang-Fei;

"c. A folder labeled 304C containing true and correct  
records pertaining to wire transfer records and supporting  
documentation for HSBC Hong Kong account 485278956888 in the  
name of Mr. Wang Xiang-Fei.

"Government Exhibits 305A through 305Q are hard-copy  
records consisting of selected records from Government Exhibits  
301 through 304. The information contained on Government  
Exhibits 301 through 305Q was recorded by someone with  
knowledge at HSBC Hong Kong at or near the time that the  
activity took place, was kept in the course of regularly  
conducted activity of HSBC Hong Kong, and was made as a regular  
practice of that activity.

"It is further stipulated and agreed that this  
stipulation, which is marked as Government Exhibit 1407, and  
Exhibits 301 through 305Q may be received in evidence as  
government exhibits at trial."

At this time, your Honor, the government would offer  
the aforementioned exhibits into evidence.

THE COURT: Granted.

H4qWthi4

1 (Government Exhibits 1407 and 301-305Q received in  
2 evidence)

3 MR. DiMASE: Moving on to the second stipulation, your  
4 Honor, this is marked Government Exhibit 1401, and skipping  
5 again the preliminary paragraph:

6 "Government Exhibit 201 is a true and correct copy of  
7 a Dutchess County clerk recording page and deed, dated November  
8 13, 2010, for the sale of the real property located at 771  
9 Duell Road, Millbrook, New York 12545, which is in the town of  
10 Stanford, New York (hereinafter 'the Dutchess County  
11 property');

12 "Government Exhibit 202 is a true and correct copy of  
13 a form RP5217, New York State real property transfer report,  
14 dated November 19, 2010, for the November 13, 2010, sale of the  
15 Dutchess County property;

16 "Government Exhibit 203 is a true and correct copy of  
17 a Dutchess County clerk recording page and deed" -- let me  
18 start that over;

19 "Government Exhibit 203 is a true and correct copy of  
20 a Dutchess County clerk recording page and deed dated May 11,  
21 2012, for the sale of the real property located at 771 Duell  
22 Road, Millbrook, New York, 12545;

23 "Government Exhibit 204 is a true and correct copy of  
24 a form RP5217, New York State real property transfer report,  
25 dated May 11, 2012, for the May 11, 2012, sale of the Dutchess

H4qWthi4

Scardaci - Direct

1 County property;

2 "Government Exhibit 205 is a true and correct copy of  
3 an application for a building permit for the Dutchess County  
4 property, which was filed with the town of Stanford, New York;  
5 and

6 "Government Exhibit 206 is a true and correct copy of  
7 formation documents for a New York State limited liability  
8 corporation named 771 Duell Road LLC.

9 "It is further stipulated and agreed that this  
10 stipulation, which is marked as Government Exhibit 1401, and  
11 Government Exhibits 201 through 206 may be received in evidence  
12 as government exhibits at trial.

13 Your Honor, the government would further offer those  
14 exhibits into evidence, including the two stipulations  
15 themselves, 1401 and 1407.

16 THE COURT: Received.

17 (Government Exhibits 1401 and 201-206 received in  
18 evidence)

19 MR. DiMASE: Thank you.

20 MS. LARYEA: The government calls Mr. Larry Scardaci.

21 LARRY SCARDACI,

22 called as a witness by the Government,

23 having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. LARYEA:



H4qWthi4

Scardaci - Direct

1 Q. Mr. Scardaci, where do you live?

2 A. 58 Dutchess Hill Road, Poughkeepsie, New York.

3 Q. What do you do?

4 A. General contractor, remodeler.

5 Q. How long have you been working as a general contractor?

6 A. Since 1980.

7 Q. Who do you work for?

8 A. Myself.

9 Q. Do you have a company?

10 A. Yes.

11 Q. What is the name of that company?

12 A. Scardaci Building Company Incorporated.

13 Q. How many employees do you have?

14 A. Right now just three.

15 Q. What kind of contracting work do you do?

16 A. Remodeling, restoration, occasionally new additions,  
17 kitchens, bathrooms.

18 Q. What kind of properties do you work on; residential,  
19 commercial?

20 A. A little of both, mostly high-end residential.

21 Q. Where are most of your projects based?

22 A. Dutchess County.

23 Q. Do you know a Mr. Mahmoud Thiam?

24 A. Yes, I do.

25 Q. How did you meet him?

H4qWthi4

Scardaci - Direct

1 A. I met him from Eileen Quinn, who was the real estate broker  
2 for his home.

3 Q. How did you come to meet him through Ms. Quinn?

4 A. She referred me to him.

5 Q. Why did she refer you to him?

6 A. Well, because I've done other projects for her in the past  
7 for other clients.

8 Q. You mentioned Ms. Quinn introduced you to the Thiams?

9 A. Correct.

10 Q. Were they looking to have work done on a property?

11 A. Yes, they were.

12 Q. What property was that?

13 A. 771 Duell Road, Millbrook.

14 Q. What county was that property based in?

15 A. Dutchess.

16 Q. After the referral from Ms. Quinn, did you meet the Thiams?

17 A. Yes, I did.

18 Q. Approximately when did you meet them?

19 A. 20 -- probably the end of 2010, beginning of 2011.

20 Q. Where was this first meeting with the Thiams?

21 A. At their home on 771 Duell Road.

22 Q. And who was present at this meeting?

23 A. Mahmoud Thiam and his wife Fatim Thiam and Jimmy Crisp, the  
24 architect.

25 Q. Do you see Mr. Thiam in the courtroom today?

H4qWthi4

Scardaci - Direct

1 A. Yes, I do.

2 Q. Can you describe him and where he is sitting?

3 A. Sitting next to the gentleman on the left, second row,  
4 first table -- second table back.

5 MS. LARYEA: Will the record reflect that Mr. Scardaci  
6 has identified the defendant?

7 THE COURT: Yes.

8 Q. What did you discuss at this meeting with Mr. Thiam and  
9 Mrs. Fatim Thiam?

10 A. First off, just a review of, of the project that they had  
11 designed, and what type of work was going to be involved and  
12 possibly -- you know, approximate time frame which they would  
13 like to start it.

14 Q. Let's take that one at a time. You mentioned you discussed  
15 the kind of project that they designed. What property was this  
16 project for?

17 A. 771 Duell Road, Millbrook.

18 Q. What kind of work did they want done on 771 Duell Road?

19 A. It was a whole, entire-home renovation.

20 Q. Specifically what kind of renovation did they want  
21 performed?

22 A. We demoed the entire interior of the home, new electrical,  
23 new plumbing, new heating and air-conditioning and, of course,  
24 all new interior finishes, kitchen, bathrooms, bedrooms.

25 Q. Did you provide them during this meeting with a budget of

H4qWthi4

Scardaci - Direct

1 how much that work would cost?

2 A. Well, in the beginning, just on first glance, I was  
3 considering -- obviously broad numbers, like maybe between a  
4 million five and possibly two million, but not knowing all the  
5 details for one meeting, it was just a guesstimate.

6 Q. I want to take a step back and talk about the property.  
7 You mentioned that the first meeting was at the 771 Duell Road  
8 property, is that correct?

9 A. Correct.

10 Q. Could you describe the property?

11 A. It's a, a large home. Probably seven bedrooms, seven  
12 bathrooms, in-ground swimming pool, pool house, two-car  
13 detached garage with a suite above, tennis court, approximately  
14 maybe 30 acres of land.

15 Q. What did you understand to be the relationship between the  
16 Thiams and this property?

17 A. Well, they were the owners of the property.

18 Q. Why did you believe they were the owners of the property?

19 A. Well, their name was on the blueprints, and they introduced  
20 themselves as Mr. Mahmoud Thiam and Fatim Thiam, and Jimmy  
21 Crisp, the architect, same. And Eileen Quinn introduced me as  
22 Mr. and Mrs. Thiam, so that was -- I had no reason not to  
23 believe.

24 Q. After this meeting, did you get the job for the renovation?

25 A. Yes, I did.

H4qWthi4

Scardaci - Direct

1 Q. What did you do after the Thiams hired you?

2 A. Well, we, of course, had to go acquire building permits and  
3 then, of course, discuss what was the first phase of the  
4 project to be started, and then went from there.

5 Q. So let's start with the building permit that you mentioned.  
6 I'm showing you what has been admitted as Government Exhibit  
7 205, page 16 of 205.

8 MS. LARYEA: Mr. Beer, would you publish page 16 of  
9 Government Exhibit 205. Can you enlarge the top half of that  
10 document, please.

11 Q. Mr. Scardaci, do you recognize this document?

12 A. Yes, I do.

13 Q. What is it?

14 A. Application for a building permit.

15 Q. I'm sorry. I did not hear that.

16 A. Application for a building permit.

17 Q. OK. Who filled out this application?

18 A. I did.

19 Q. I want to start with the first line of the application. It  
20 requests the names of the owners of record. Do you see that  
21 line?

22 A. Yes, I do.

23 Q. What is written in response to that question?

24 A. Mahmoud and Fatim Thiam.

25 Q. And who wrote that down?

H4qWthi4

Scardaci - Direct

1 A. Myself.

2 Q. Why did you write down that Mahmoud and Fatim were the  
3 owners?

4 A. I had no other reason to believe they weren't.

5 Q. And what is the property that this building permit  
6 application is for?

7 A. 771 Duell Road. Of course, I put Standfordville, New York,  
8 but I believe it might be Millbrook, New York.

9 MS. LARYEA: Can you enlarge -- sorry.

10 Q. Before I move on, there's a section that describes what is  
11 to be constructed. Can you see that section?

12 A. Yes.

13 Q. Can you explain what kind of work was to be done on the  
14 property?

15 A. Renovate -- well, renovate kitchen; add a bump-out addition  
16 off the kitchen; remodel mud room; guest bathroom, and can't  
17 see the part --

18 Q. Mr. Scardaci --

19 A. Living room, library.

20 Q. I'm sorry. There was some feedback. Could you repeat  
21 that?

22 A. Renovate kitchen; add bump-out addition off kitchen;  
23 remodel mud room; guest bedroom, with -- I'm not sure what the  
24 BOW, maybe bump-out addition; renovate living room and library.

25 MS. LARYEA: Mr. Beer, could you please enlarge the

H4qWthi4

Scardaci - Direct

1 middle part of that from the "please include the following," so  
2 right before the section that says "this building permit is  
3 valid for one year."

4 Q. No. 6, does it say the contractor name?

5 A. Yes, it does.

6 Q. And who is the contractor?

7 A. Scardaci Building Co. Inc.

8 Q. Is that your company?

9 A. Yes, it is.

10 Q. What is the date of this application?

11 A. 2/11 -- 2/15/11.

12 Q. After you got this building permit, did you fill out any  
13 other forms in connection with this renovation?

14 A. Along the way, probably a certificate of capital  
15 improvement form.

16 Q. I'm approaching you with what has been marked for  
17 identification as Government Exhibit 601A -- sorry, 1601A.  
18 Have you seen this form before, Mr. Scardaci?

19 A. Yes, I have.

20 Q. What is it?

21 A. A certificate of capital improvement.

22 Q. Who filled out the form?

23 A. I filled out the form.

24 Q. And who kept that form?

25 A. Say it again.

H4qWthi4

Scardaci - Direct

1 Q. Who keeps that form?

2 A. I usually keep that form, and of course, sometimes the  
3 owner requests a copy.

4 Q. As the owner of Scardaci construction, are you familiar  
5 with how your company keeps this kind of record?

6 A. Yes.

7 Q. Was this record created at or near the time when you  
8 gathered the information on that record?

9 A. Yes.

10 Q. Was this record regularly kept to properly maintain records  
11 relating to your construction projects?

12 A. Yes.

13 Q. Was filling out this form a regular practice of your  
14 company?

15 A. Yes, it was.

16 MS. LARYEA: At this point, your Honor, the government  
17 offers Government Exhibits 1601A into evidence.

18 MR. GOLDSMITH: May I see a copy of it?

19 THE COURT: Received.

20 (Government Exhibit 1601A received in evidence)

21 MR. GOLDSMITH: Your Honor, I'd just like to see a  
22 copy of it first.

23 THE COURT: OK. Well, I think all of these have been  
24 provided already.

25 MR. GOLDSMITH: That's fine.



H4qWthi4

Scardaci - Direct

1 THE COURT: Thank you.

2 MR. GOLDSMITH: Well, actually -- OK. Fine. No  
3 objection.

4 THE COURT: Thank you.

5 BY MS. LARYEA:

6 Q. What is the purpose of this form?

7 A. Well, it's a form that I keep on file when doing  
8 renovation, remodeling work as a capital improvement, not a  
9 repair. So I keep those on file so that it shows that I'm not,  
10 I'm not -- well, responsible for collecting sales tax on, on  
11 the work, because it's not repair; it's a renovation or a  
12 capital improvement.

13 Q. The contractor listed on this form -- first let's start  
14 with who filled out this form. You said you did, correct?

15 A. Correct.

16 Q. And the contractor listed --

17 MS. LARYEA: Mr. Beer, could you please publish  
18 Government Exhibit 1601A. Can you enlarge the first part of  
19 that, the first section.

20 Q. Let's start with the right-hand side. It asks for the name  
21 of the contractor. Is that your company, Scardaci Building Co.  
22 Inc.?

23 A. Yes.

24 Q. And the left side, it asks for the name of the customer.  
25 Who is the customer listed there?

H4qWthi4

Scardaci - Direct

1 A. Mahmoud and Fatim Thiam.

2 Q. And what is the address of the property that is being  
3 renovated?

4 A. 771 Duell Road, Stanford, New York.

5 Q. And the work that's to be done is described in the section  
6 that is to be completed by customer, is that correct?

7 A. Correct.

8 MS. LARYEA: Mr. Beer, can you please enlarge the  
9 second part of that document.

10 Q. And the project name there, what's the project name?

11 A. Project name is Mahmoud and Fatim Thiam, 771 Duell Road.

12 Q. Do you see any certifications listed underneath the street  
13 address?

14 A. Street address?

15 Q. Under the 771 Duell Road, do you see a section that says "I  
16 certify that"?

17 A. Oh, I'm the owner, yes.

18 Q. Can you read that line?

19 A. "I first certify that I'm the owner of the real property  
20 identified on this form."

21 Q. And now do you see a signature block, the first signature  
22 block?

23 A. Yes, I do.

24 Q. Do you see a sentence before it that starts "I will be  
25 subject to"?

H4qWthi4

Scardaci - Direct

1 A. Yes.

2 Q. Can you please read that as well?

3 A. "I will be subject to civil or criminal penalties, or both,  
4 under the tax law if I issue a false or fraudulent  
5 certificate."

6 Q. Now, Mr. Scardaci, do you see a signature under the section  
7 titled "signature of customer"?

8 A. Yes, I do.

9 Q. Whose signature is that?

10 A. Fatim Thiam.

11 Q. So the first part when we were looking at this document,  
12 who filled out the form, the part that had the name of the  
13 customer, the project name, the street address, etc.?

14 A. I did.

15 Q. And did you fill it out in the presence of Ms. Thiam or by  
16 yourself?

17 A. In the presence.

18 Q. And after you filled it out, did you give the form to  
19 Mrs. Thiam?

20 A. Yes, I did.

21 Q. And that signature, you mentioned before, is the signature  
22 of Ms. Thiam. Did you actually see her sign it?

23 A. Yes.

24 Q. And next to the signature of customer there's a section  
25 called "title." What does it say there?

H4qWthi4

Scardaci - Direct

1 A. Owner.

2 Q. And who wrote that down?

3 A. Fatim.

4 Q. And then on the very bottom of the form, is that your  
5 signature?

6 A. Yes, it is.

7 Q. OK. Now, Mr. Scardaci, I want to talk a bit about the work  
8 you did on the house. About when did you start working on the  
9 house?

10 A. Somewheres in the first part of 2011.

11 Q. Did you meet the Thiams to discuss the project, exactly  
12 what was to be done?

13 A. Yes, I did.

14 Q. About how many times did you meet with the Thiams during  
15 the pendency of the project?

16 A. Oh, many times, on weekends.

17 Q. On weekends; how many times per month?

18 A. As needed, probably sometimes two, three times a month.

19 Q. And where did you meet them for these discussions?

20 A. At the residence of 771 Duell Road.

21 Q. And during these discussions, during these meetings, what  
22 did you discuss?

23 A. Details of the renovation.

24 Q. How long did this project last for?

25 A. From 2011 to somewheres, August 2016.

H4qWthi4

Scardaci - Direct

1 Q. And during this period, could you describe the work that  
2 you actually completed on the house?

3 A. We actually completed, of course, the demolition; framing  
4 of all the lower level; theater room; personal gym area;  
5 roughing in of all the new electrical; installation of heating  
6 and air-conditioning; bump-out addition off the kitchen;  
7 Sheetrocking; trim throughout; all new flooring; tiling of  
8 bathrooms; painting of all trim work and doors; sanding of  
9 floors through staircase and hallways; all new, install all new  
10 windows and doors throughout the whole, entire home; siding  
11 exterior.

12 Q. Did you build a Jacuzzi?

13 A. No, we did not.

14 Q. Was there a design to build a Jacuzzi?

15 A. Yes.

16 Q. A sauna?

17 A. Yes.

18 Q. A game room?

19 A. Correct.

20 Q. Movie theater room?

21 A. Yes.

22 MR. GOLDSMITH: Objection.

23 THE COURT: Sustained.

24 Q. What kind of work did the Thiems want done on the house, in  
25 terms of was it high end, was it low end?

H4qWthi4

Scardaci - Direct

1 A. Well, they certainly appreciated high-end workmanship and  
2 high-end materials.

3 Q. When you say high end, what does that mean?

4 A. Well, of great -- of good quality.

5 Q. What kind of good quality?

6 A. I guess you could say the best the money could buy with the  
7 product they were purchasing.

8 Q. Were there any specific high-end projects that you  
9 witnessed?

10 A. Repeat that.

11 Q. Were there specific high-end projects that you witnessed?

12 A. Well, high-end kitchens; bathrooms; trim work; moldings;  
13 flooring; toilets; fixtures; everything was pretty much  
14 upscale: windows, doors.

15 Q. Have you heard of something called lime wash painting?

16 A. Yes.

17 Q. What is lime wash painting?

18 A. Well --

19 MR. GOLDSMITH: Objection.

20 THE COURT: Overruled.

21 Q. You may answer. What is lime wash painting?

22 A. Lime wash painting is a hand applied, hand-brush applied  
23 finish. It's quite labor intensive and quite unique in its  
24 character that not many people do.

25 Q. And did you witness this lime wash painting at the property

H4qWthi4

Scardaci - Direct

1 on 771 Duell Road?

2 A. Yes, I did.

3 Q. Was that lime wash -- who did that lime wash painting?

4 A. Some -- a couple from Belgium.

5 Q. So they came in from Belgium to do that painting, is that  
6 correct?

7 A. Yes, with their crews.

8 Q. Did you ever see the Thiams using the house?

9 A. Yes.

10 Q. How did they use the house?

11 A. Just for weekends, like weekend retreats, occasionally  
12 vacationing, whatever.

13 Q. Now, you mentioned a lot of work that you did on the house.  
14 How did the Thiams pay you?

15 A. In the beginning probably some, a few checks but mostly  
16 wire transfers.

17 Q. I want to talk about the wire transfers. Where did these  
18 wires come from; what accounts, from where?

19 A. Well, Dubai and other countries where -- I didn't really  
20 study every country they came from. I just knew that they came  
21 from all different locations.

22 Q. Did you ever receive any wires from Hong Kong?

23 A. There is one in there from Hong Kong, yes.

24 MS. LARYEA: Mr. Beer, will you please publish  
25 Government Exhibit 301C, page 247. Can you enlarge the second

H4qWthi4

Scardaci - Direct

1 half of that form, please. Sorry. Just the second half, the  
2 part that starts with 57.

3 Q. Do you see the name of your company on this form?

4 A. Yes, I do.

5 Q. And do you see, can you point out where on the page is it?

6 A. Right hand --

7 Q. Describe it.

8 A. Right, upper right-hand corner.

9 Q. What does it say?

10 A. Scardaci Building Co. Inc.

11 Q. And above that there is an account number. Do you  
12 recognize that account number?

13 A. Yes, I do.

14 Q. What account number is that?

15 A. That's my Scardaci Building Company ChaseBank account  
16 number.

17 MS. LARYEA: Mr. Beer, will you please enlarge the top  
18 half of that page.

19 Q. Mr. Scardaci, do you see who was sending you that  
20 account -- I mean, that wire?

21 A. Mr. Mahmoud Thiam -- Mr. Thiam Mahmoud, actually, it says  
22 on it.

23 Q. Do you see the bank where this wire is coming from?

24 A. Hong Kong and Singapore banking corporation.

25 Q. Is it Hong Kong and Shanghai Banking Corporation?



H4qWthi4

Scardaci - Direct

1 A. Oh, excuse me. Hong Kong and Shanghai, yeah. Sorry.

2 Q. What city is this wire coming from?

3 A. Hong Kong.

4 Q. Now, going up to the top of this wire, on the right-hand  
5 side, there's a section called amount. Do you see that  
6 section?

7 A. Yes.

8 Q. How much is being sent?

9 A. \$52,092.

10 Q. And what is the date that this wire is being sent?

11 A. 17/03, 2011.

12 Q. Is that March 17, 2011?

13 A. Yes.

14 Q. And during March 2011, were you doing work on 771 Duell  
15 Road?

16 A. Yes.

17 MS. LARYEA: Mr. Beer, will you please publish  
18 Government Exhibit 301C, page 386. Will you enlarge the second  
19 part of that page.

20 Q. Mr. Scardaci, do you see the name of your company on this  
21 wire transfer?

22 A. Yes. Upper right-hand corner, Scardaci Building Co. Inc.

23 Q. Do you see the account number above it?

24 A. Yes, I do.

25 Q. What account number is that?

H4qWthi4

Scardaci - Direct

1 A. That's my business, Chase account number.

2 MS. LARYEA: Can you enlarge the top half of the form,  
3 please, Mr. Beer.

4 Q. Who is the wire coming from?

5 A. Mr. Thiam Mahmoud.

6 Q. And what bank is the wire coming from?

7 A. Hong Kong -- sorry.

8 Q. What bank?

9 A. No. The Hong Kong bank corporation.

10 Q. And what city is the bank wire coming from?

11 A. Well, Hong Kong, Saigon. Saigon? Hong Kong. What's that,  
12 Saigon?

13 Q. Hong Kong Shanghai Banking Corporation?

14 A. Shanghai banking corporation. Yeah.

15 Q. Is the wire coming from Hong Kong?

16 A. Hong Kong, yes.

17 Q. Do you see the amount?

18 A. 70,556.66.

19 Q. And the date that the wire's being sent?

20 A. 3/05, 2011.

21 Q. Thank you. Mr. Scardaci, you mentioned that you were  
22 receiving wires from Dubai and some other international  
23 locations. Did you ever have an issue with receiving those  
24 wires?

25 A. As far as?

H4qWthi4

Scardaci - Direct

1 Q. Were you ever called in to your bank because you were  
2 receiving those wires?

3 A. Yes, I was called in to my bank for questioning to ask me  
4 whether I was involved in international business.

5 Q. What did you say?

6 A. No, I was not.

7 Q. And why did your bank call you in to discuss these wires?

8 A. Just kind of, I guess, must be a system that flags them on  
9 when you get multiple wire, continuous multiple wires from all  
10 different countries.

11 Q. Now, you mentioned that you were paid with wire transfers  
12 and personal checks. Were you paid any other ways?

13 A. One time paid cash.

14 Q. How were you paid in cash?

15 A. He sent a gentleman up from New York and paid me in cash,  
16 all in hundred-dollar bills.

17 Q. Where did you meet this gentleman?

18 A. We met on Route 44 in Pleasant Valley at, I think it was  
19 called the Cottonwood Hotel or motel.

20 Q. And how did he give you the cash?

21 A. In a bag, all in hundred-dollar bills, which we counted.

22 Q. How much was paid to you in cash at that time?

23 A. 17,000.

24 Q. Did you ever speak with Mr. Thiam about what kind of work  
25 he did?

H4qWthi4

Scardaci - Direct

1 A. Very briefly.

2 Q. What kind of work did you understand him to be engaged in?

3 A. I guess minerals, mining exploration type businesses.

4 Q. Did Mr. Thiam ever mention whether he was ever a government  
5 official?

6 A. As we got to know each other a little further along, yes.

7 Q. I'm sorry, Mr. Scardaci --

8 A. As our relationship developed, later on in time, yes, he  
9 mentioned to me he was involved in government.

10 Q. And what government position did he hold?

11 A. Guinea minister of mining.

12 Q. I'm sorry?

13 A. Guinea minister of mining.

14 Q. Was there ever a time when the work on the house stopped?

15 A. Yes.

16 Q. How many times?

17 A. At least three or four times.

18 Q. Why did the work on the house stop?

19 A. Due to lack of funds or difficulties getting funds.

20 Q. What do you mean by lack of funds?

21 A. Well, not funds being wired when we were, we needed the  
22 money to continue the project.

23 Q. You mean you weren't getting paid?

24 A. Correct.

25 Q. And did you ever speak with Mr. Thiam about why you weren't

H4qWthi4

Scardaci - Direct

1 getting paid?

2 A. Well, multiple times, yes, questioning him when we were  
3 going to get paid and he was waiting for, I guess, accounts  
4 that he was working with to pay him.

5 Q. Did you ever get fully paid by Mr. Thiam?

6 A. No.

7 Q. During the period of time when you weren't getting paid,  
8 how did you pay your employees or anyone else you were working  
9 with?

10 MR. GOLDSMITH: Objection.

11 THE COURT: Sustained.

12 Q. How did the fact that you weren't getting paid affect the  
13 work you were doing?

14 A. We had to seek, everyone had to go seek work elsewhere and  
15 find a new way to generate a revenue stream so we could all pay  
16 our bills.

17 Q. Now, are you still working for Mr. Thiam?

18 A. Not at the moment, no.

19 Q. When did you stop working for him?

20 A. Approximately, must have been around August of 2016.

21 Q. And why did you stop working for him?

22 A. No funds being forwarded.

23 Q. When you say no funds being forwarded, do you mean not  
24 getting paid?

25 A. Correct.

H4qWthi4

Scardaci - Direct

1 Q. How much approximately did Mr. Thiam pay you for the  
2 project?

3 A. Approximately a million 450, a million 500-and-some  
4 thousand, somewhere in that range.

5 Q. Are you still owed money?

6 A. Yes.

7 Q. How much are you owed?

8 A. Oh, approximately 25 to 30.

9 Q. Now, Mr. Scardaci, did you ever find out whether Mr. Thiam  
10 actually owned the house on paper?

11 A. Never found out until later on when I guess he had gotten  
12 into some kind of difficulty at some point where he transferred  
13 the ownership of the house to another entity, but I always  
14 assumed he owned the house, so I wasn't sure what that was all  
15 about, but, I assumed he owned the house.

16 MR. GOLDSMITH: Objection.

17 A. Not until later on did I know that he --

18 THE COURT: Overruled, but I'm going to ask you to  
19 lead here.

20 MS. LARYEA: Yes, your Honor.

21 THE COURT: At least initially.

22 MS. LARYEA: Yes, your Honor.

23 Q. You mentioned that you found out that he transferred the  
24 house to someone else, is that correct?

25 A. Correct.

H4qWthi4

Scardaci - Cross

1 Q. Did you ever finish working on the 771 Duell Road property  
2 renovation project?

3 A. No.

4 MS. LARYEA: One second, your Honor?

5 Q. Now, Mr. Scardaci, you mentioned that you eventually  
6 discovered that Mr. Thiam didn't own the house and that you  
7 tried to put a lien on the house?

8 A. Correct.

9 Q. Why did you try to put a lien on the house?

10 A. Because I was not paid.

11 Q. Was this lien effected?

12 A. No.

13 Q. Why not?

14 A. Because I didn't file it under the right ownership.

15 Q. How did you find out that the lien wasn't effected?

16 A. From the attorneys.

17 MS. LARYEA: No further questions, your Honor.

18 CROSS-EXAMINATION

19 BY MR. GOLDSMITH:

20 Q. Mr. Scardaci, you testified a moment ago that when the  
21 Thiams had difficulty paying you and your crew, you sought work  
22 elsewhere, is that correct?

23 A. Occasionally, yes.

24 Q. And in the years of general contracting that you've done,  
25 do you only work on one project at a time?

H4qWthi4

Scardaci - Cross

1 A. Well, his project was pretty much a "one project at a time"  
2 because of the, the details of the project, consumed my every,  
3 every bit of attention.

4 Q. In your ordinary practice, through the years of being a  
5 general contractor, you would do more than one project at a  
6 time?

7 A. In the past years, yes.

8 Q. But only during that period with Mr. Thiam you focused on  
9 his only project at the time?

10 A. Until we ran out of funds to continue the project.

11 Q. You had the opportunity to have other projects while you  
12 were working on Mr. Thiam's house?

13 A. Yeah, but I wasn't large enough to take on other projects.  
14 His project was my sole interest.

15 Q. And you said you put a lien or attempted to put a lien on  
16 the house over the \$25,000 that was left over, right?

17 A. I didn't -- well, I believe I did not do that on that last  
18 part, no.

19 Q. You attempted to, right?

20 A. Yes.

21 Q. What was the total amount due on the lien?

22 A. I don't remember the exact number.

23 Q. All right. And you're pretty confident you got about 1.45  
24 million for the project so far?

25 A. Well, I have to again look back at my records to see what



H4qWthi4

Scardaci - Cross

1 the exact amounts were.

2 Q. For the record, you don't have an accounting of all of the  
3 money you got versus the work that was performed and the  
4 expenses laid out, right?

5 A. I have that, yes.

6 Q. You have that?

7 A. I believe so, yes.

8 Q. Did you provide it to the government?

9 A. It was all in my records that I -- I gave them everything  
10 that I had.

11 Q. Did you ever provide all that information to the Thiams  
12 when you were working on the project?

13 A. As the project went along, I billed them as the project  
14 progressed, yes.

15 Q. And you gave them printouts of all the expenses and all the  
16 labor and everything?

17 A. Yes.

18 Q. And you testified a few moments ago that there was one  
19 occasion that you received cash. Do you remember that?

20 A. Yes.

21 Q. And you testified about a man coming up from New York and  
22 meeting you at a hotel, and that was because you told the  
23 Thiams that you wanted cash, right?

24 A. No.

25 Q. No?

H4qWthi4

Scardaci - Cross

1 A. No.

2 Q. Sure about that?

3 A. Sure about that.

4 Q. Now, you've met with the government in the past, right?

5 A. Yes.

6 Q. Before testifying here today?

7 And you were pretty honest with them during those meetings,  
8 right?

9 A. Yes.

10 Q. And as you sit here today, is your memory the same or  
11 better than it was during those meetings where you already met  
12 with the government?

13 A. I assume it's the same.

14 Q. And it's your testimony today that you did not call the  
15 Thiams and ask for cash?

16 A. No, I did not call and ask for cash. I asked for payment,  
17 and he said he had a friend coming down from somewhere, Would  
18 you take cash. I said, Of course I will; I'll pay the bills.

19 Q. All right. So if I were to tell you that it appears as  
20 though you told the government that you called Mr. Thiam and  
21 said that you needed cash, that would be incorrect, right?

22 A. I needed payment. He offered. He said something about he  
23 had a friend with cash. I never asked for cash.

24 Q. So you did not specifically ask for cash on that deal?

25 A. No.

H4qWthi4

Scardaci - Redirect

1 Q. That was something that was a misunderstanding, right?

2 A. Yes.

3 MR. GOLDSMITH: No further questions.

4 THE COURT: Redirect.

5 MS. LARYEA: Yes, your Honor.

6 REDIRECT EXAMINATION

7 BY MS. LARYEA:

8 Q. Mr. Scardaci, when did you -- we just discussed the cash  
9 payment you received, is that correct?

10 A. Correct.

11 Q. When you told the Thiams you needed payment, is it possible  
12 you said "I need cash"?

13 A. No.

14 Q. And if you needed payment, you were willing to take that  
15 payment in any form they gave it to you?

16 A. Correct.

17 Q. Because you needed to pay your bills?

18 A. Yes.

19 Q. So you would have accepted cash?

20 A. Yes.

21 MS. LARYEA: No further questions.

22 THE COURT: Recross?

23 MR. GOLDSMITH: No, your Honor.

24 THE COURT: You may step down.

25 (Witness excused)

H4qWthi4

Sande - Direct

1 THE COURT: Next witness.

2 MR. DiMASE: Yes, your Honor. The government calls  
3 Mamadou Sande.

4 THE COURT: Counsel, do you want to come up and take  
5 those documents?

6 MR. DiMASE: Yes.

7 MAMADOU SANDE,

8 called as a witness by the Government, having

9 been duly sworn, testified, through the

10 French-language interpreter, as follows:

11 DIRECT EXAMINATION

12 BY MR. DiMASE:

13 Q. Good afternoon.

14 A. Thank you.

15 Q. What country are you a citizen of?

16 A. I'm a citizen of the Republic of Guinea.

17 Q. And where do you live?

18 A. I live in Conakry.

19 Q. Is that the capital of Guinea?

20 A. Yes.

21 Q. And Mr. Sande, what is your current occupation?

22 A. I am a military.

23 Q. What is your rank -- withdrawn.

24 Is that the Guinean military?

25 A. Yes.

H4qWthi4

Sande - Direct

1 Q. And what is your rank?

2 A. I am a colonel.

3 Q. Could you briefly explain for the jury your current duties  
4 in your position?

5 A. I am currently the financial and economic adviser for the  
6 minister of state, who is in charge of the national defense.

7 Q. So you are an economic adviser to the minister of defense,  
8 is that right?

9 A. Yes.

10 Q. Have you held other positions within the Republic of  
11 Guinea's government?

12 A. Yes, in the past.

13 Q. Let me focus specifically on the time period of December  
14 2008 to February of 2010. Were you working for the Republic of  
15 Guinea government during that period?

16 A. Yes. At the end of 2008 until February '10, I was  
17 precisely the ministry of -- the minister of economy and  
18 finance and then the minister of energy.

19 Q. So beginning in February 2010, you became the minister of  
20 energy after having served as the minister of finance, is that  
21 right?

22 A. Yes.

23 Q. Are you familiar with an entity called China International  
24 Fund, or CIF?

25 A. Well, familiar with that would be a little bit too much,

H4qWthi4

Sande - Direct

1 but we had to work with them within the framework of the  
2 government.

3 Q. And when you say "we had to," you mean in your position as  
4 a minister, you were involved in working with that company?

5 A. Yes, it was while I was a minister of two following  
6 governments.

7 Q. In particular, did the government of Guinea enter into  
8 various agreements, without getting into the details of those  
9 agreements, in 2009 with CIF?

10 A. Yes.

11 Q. Was a commission set up to negotiate with CIF in 2009?

12 A. Yes.

13 Q. Who were the members of that commission?

14 A. There was a ministerial commission that was established of  
15 which the chair was Mr. Boubacar Barry.

16 Q. And who else was on the committee other than Mr. Barry, or  
17 commission?

18 A. I was a member myself as well as Minister Thiam.

19 Q. And what was -- was that Mahmoud Thiam?

20 A. Yes, Mahmoud Thiam.

21 Q. What was Mr. Thiam's position at that time?

22 A. He was minister of mines and energy.

23 Q. If you saw Mr. Thiam in the courtroom today, would you be  
24 able to recognize him?

25 A. Yes, of course.

H4qWthi4

Sande - Direct

1 Q. Do you see him here?

2 A. Yes, of course. He's the one in front of me wearing the  
3 glasses.

4 MR. DiMASE: May the record reflect that the witness  
5 has identified the defendant, your Honor?

6 THE COURT: Yes.

7 THE WITNESS: Yes, that's the one who is sitting over  
8 there with the glasses.

9 MR. DiMASE: Thank you.

10 THE WITNESS: The second.

11 BY MR. DiMASE:

12 Q. Let me move on to your background. You discussed the fact  
13 that you were a minister in 2009?

14 A. Yes.

15 Q. Let me briefly cover your education. Where did you attend  
16 university?

17 A. I studied at the University of Kankan. This is the main  
18 town of the region of natural, of high Guinea.

19 Q. When you say high Guinea, is that an area of Guinea?

20 A. Yes, it is Guinea because geographically speaking, Guinea  
21 has four natural regions.

22 Q. Kankan is located in one of those regions?

23 A. Yes, Kankan is the main town of high Guinea.

24 Q. What was your degree after you finished your studies at  
25 that university in Kankan?

H4qWthi4

Sande - Direct

1 A. My degree was in geographical science.

2 Q. What year did you graduate from university?

3 A. In 1992.

4 Q. Now, in 1993, did you begin working?

5 A. Yes, in the military.

6 Q. What was your rank initially in the military?

7 A. I was first a soldier.

8 Q. Now, did there come a time several years later when you  
9 went to live in another country?

10 A. Yes, in 1998, I got a scholarship to continue my training,  
11 my military training, in Germany.

12 Q. So very briefly, in those years between 1993 and 1998, were  
13 you working in the military for that entire time period?

14 A. Yes, I was in the battalion of military engineering.

15 Q. And what kind of projects did you work on?

16 MR. DiMASE: I'll stop you there to allow the  
17 interpreter.

18 A. So when you are in the military engineering, it's not like  
19 other country. During the years where I was working for the  
20 military engineering in Guinea, the army was working on the  
21 development of a social aspects, economic aspects of the  
22 country, and in the restructuration of the country and the  
23 infrastructure and the roads.

24 Q. So were you working --

25 THE COURT: Excuse me one second.



H4qWthi4

Sande - Direct

1 Mr. Sande, because you are giving your testimony with  
2 the help of an interpreter, could you please, when you have a  
3 longer answer, break it up into smaller units.

4 THE WITNESS: OK.

5 THE COURT: Thank you.

6 MR. DiMASE: Thank you, your Honor.

7 Q. So is it fair to say that part of your work during those  
8 years was on infrastructure projects in Guinea?

9 A. Yes.

10 Q. And you went to Germany in 1998. How long were you there?

11 A. Yes. I went there, I went to Germany in two phases.

12 Q. Please describe those phases, briefly.

13 A. The first step was in the, within the framework of the  
14 military training. I was, I went to the military academy. And  
15 the second step was for my studies in economics.

16 Q. And what years were you studying economics in Germany?

17 A. From 2004 to 2008.

18 Q. Did you earn a degree at the conclusion of those studies?

19 A. Yes, a university degree in economics.

20 Q. Did you have a specialization in any particular area?

21 A. Yes, in public finance.

22 Q. When in 2008 did you graduate, approximately?

23 A. I finish my exams on September 30, so following that, I got  
24 my degree in October.

25 Q. And did you return to Guinea after receiving your degree?

H4qWthi4

Sande - Direct

1 A. Yes, I returned to Guinea on November 7.

2 Q. And I think you've already testified that not long after  
3 that, in December of 2008, you began serving as the minister of  
4 finance in Guinea, is that right?

5 A. Yes, on December 25.

6 Q. I'll come back to your appointment to that position in a  
7 moment, but I just want to very briefly focus on the years from  
8 the end of that position until the present. Could you very  
9 briefly --

10 THE COURT: Excuse me.

11 MR. DiMASE: Would you please translate that. Thank  
12 you.

13 Q. But I would first like to briefly address the positions  
14 you've held since then. I believe you said you served as  
15 minister of energy under another administration. Is that  
16 right?

17 A. Yes.

18 (Continued on next page)

19  
20  
21  
22  
23  
24  
25

H4qlthi5

Sande - Direct

1 BY MR. DiMASE:

2 Q. And was that between approximately 2010 and 2011?

3 A. It's from February 2010 until December 2010.

4 Q. Okay. And in 2011 did you return to the military?

5 A. Yes, after the change, there was another government. I  
6 returned to my initial structure, which is the military.

7 Q. When you say structure, do you mean function or government  
8 structure?

9 A. No, it's the military.

10 Q. And when did you begin serving in your present position of  
11 economic adviser to the minister of defense?

12 A. It's in half of 2015.

13 Q. In the middle of 2015?

14 A. Yes.

15 Q. And you've been serving in that position since then.

16 A. Yes, up to now.

17 Q. Let me ask you some questions, general questions about the  
18 Republic of Guinea.

19 Where is the country located?

20 A. Guinea is located in the western part of Africa.

21 Q. And are you familiar with the natural resources that are  
22 present in the Republic of Guinea?

23 A. Well, we started that.

24 Q. And do some of those resources include iron ore, bauxite,  
25 diamonds, and gold?

H4qlthi5

Sande - Direct

1 A. Yes.

2 Q. Are there also oil resources in Guinea?

3 A. Well, at the moment, we're prospecting upon that, but we  
4 cannot say yet that we have reserves of oil, but we are -- in  
5 Guinea, but we are conducting research on that.

6 Q. And what part of Guinea are those reserves believed to be  
7 in, the oil reserves?

8 A. It's along the coastline.

9 Q. Offshore in the ocean or at sea?

10 A. Yes, it's toward the lower part of Guinea, Conakry.

11 Q. Now as the former minister of finance in Guinea, are you  
12 familiar with the economic conditions of the country?

13 A. Yes, we follow that.

14 Q. Are you familiar with the term for per capita income?

15 A. Well, it's approximately 500, 560, in terms of US dollars.

16 Q. And when you say it, you mean the per capita income in  
17 Guinea?

18 MR. GOLDSMITH: Objection.

19 THE COURT: Sustained to form.

20 Q. What do you mean when you say "it"?

21 A. It's the income per capita.

22 Q. And what does that mean?

23 MR. GOLDSMITH: Objection.

24 THE COURT: Overruled.

25 Q. What does that mean?

H4qlthi5

Sande - Direct

1 A. You asked me about the income per capita for the Republic  
2 of Guinea. According to the statistics of the World Bank,  
3 because these are the most reliable ones, the income is about  
4 \$560 per capita.

5 Q. Okay. And what does that dollar amount refer to?

6 MR. GOLDSMITH: Objection.

7 THE COURT: What does the term "per capita" mean?  
8 Excuse me. What does the term "per capita" mean?

9 THE WITNESS: So per capita, it means Guinea has about  
10 12,500,000 inhabitants. So that's about the average of the --  
11 average income of a Guinean person.

12 BY MR. DiMASE:

13 Q. For what time frame?

14 A. Per year.

15 Q. So somewhere in the \$550 range per year per person.

16 A. Per capita, yes.

17 Q. And that amounts to around 1 to \$2 a day, is that right?

18 MR. GOLDSMITH: Objection.

19 THE COURT: Overruled.

20 A. Yes, yes.

21 Q. And Mr. Sande, are you also familiar with the term "poverty  
22 line"?

23 A. Yes.

24 Q. Based on your knowledge as a former minister of finance of  
25 Guinea, can you tell the jury about what percentage of Guinea's

H4qlthi5

Sande - Direct

1 population lives below the poverty line.

2 MR. GOLDSMITH: Objection.

3 THE COURT: Let's put a year on it.

4 Q. If you can, Mr. Sande, would you be able to tell the jury,  
5 in 2009, approximately, what part of Guinea's population lived  
6 below the poverty line.

7 A. In 2009? It would represent approximately 60 percent.  
8 Naturally, it evolved a little bit. Now we're reaching  
9 55 percent.

10 Q. Let me direct your attention to that time frame around  
11 December 2008. You testified that you were appointed as  
12 minister of finance late in that month, is that right?

13 A. Yes.

14 Q. And what happened immediately before you were appointed?

15 A. Before I was appointed?

16 Q. Yes. What happened with respect to the Guinean government  
17 before you were appointed?

18 A. On December 22, 2008, the former president who had been the  
19 president of Guinea for 24 years, General Lansana Conté, passed  
20 away. So directly there was a group of military people who  
21 were directly after to go into power, and following two days  
22 later, they took the power effectively. And that's what placed  
23 the president that is at the top of the Republic of Guinea.

24 Q. So what you've just described, was that effectively a  
25 military coup?

H4qlthi5

Sande - Direct

1 A. Well, that's a takeover of power from an unconstitutional  
2 point of view.

3 Q. I think you mentioned Dadis Komara. What was his position  
4 in the coup, or how was he involved in the coup?

5 A. He was one of the leaders, but in the end, he was chosen in  
6 order to be the leader.

7 Q. And when you say leader, did he become the president?

8 A. Yes, of course.

9 Q. And following this coup, was there still a national  
10 assembly or legislature in place in Guinea?

11 A. Yes, before the coup.

12 Q. How about after the coup?

13 A. But after the coup the assembly was dissolved.

14 Q. Now did you know President Dadis prior to the coup?

15 A. Yes, I knew him previously.

16 Q. And when did you meet him?

17 A. Well, when I was in CDND, my stay in Germany was in two  
18 stages. The first phase was my purely military training, and  
19 when I returned to Guinea for a few months, that during that  
20 period that we met each other.

21 Q. And did you come to know him better after first meeting him  
22 in that period of a few months between your two phases in  
23 Germany?

24 A. Well, yes, when I returned to Germany to study at the  
25 university, he also got a scholarship to study in the military,

H4qlthi5

Sande - Direct

1 studies, so during that period our connections were reinforced.

2 Q. Now when the coup occurred in December 2008, how did you  
3 come to be appointed as the minister of finance?

4 A. Well, after he took power, there was a matter of  
5 constituting the -- doing the government. And among that  
6 group, I was the one who was designed to be the minister of  
7 finance.

8 Q. And was that in part based on your prior relationship with  
9 President Dadis?

10 A. There were approximately two factors playing to my favor.  
11 Not only was it the university degree that I had obtained,  
12 because the matter was, if one wants to adopt changes regarding  
13 financial matters, should we go toward the older people or  
14 should we choose a new person in order to implement this change  
15 in the financial sector, and in the end, people decided to make  
16 a very radical change and I was the most appropriate person  
17 within that group for that.

18 And the second factor was the relationship and also the  
19 trustship, trustship which was between me and the President  
20 Dadis.

21 Q. As minister of finance during that period, what  
22 subdepartments or areas did you oversee in your ministry?

23 A. So first of all, I was the minister of finance, so that was  
24 a department. And as the minister of finance, my first job was  
25 government discipline, and the government that was present had



H4qlthi5

Sande - Direct

1 objectives that each of -- single level, each of all -- for  
2 each sector, so like the other ministries or other ministers,  
3 it is to implement the government's policy regarding financial  
4 matters.

5 Q. Now specifically, what areas or subdepartments were there  
6 within the ministry?

7 A. So the department of finance was a big department and it  
8 had directions at its level, and as you know, as the minister  
9 of finance, it's also you who are the person who manages the  
10 budget of the government, and in order to manage the budget,  
11 you have to find the means as well. So the arbitrage there is  
12 between the resources and the expenses, you have to put in  
13 place for this in order to make things move forward, so in  
14 order to achieve that objective, that's why I had the national  
15 direction of the budget, and the national direction of the  
16 treasury, there is a national direction of taxes, the national  
17 direction of customs, and there is a national direction for the  
18 debt, because it's a country that always needs support from  
19 exterior sources, but also the national direction of  
20 investments. Those are roughly the main directions of the  
21 department.

22 Q. Now in your capacity as minister of finance, did you have  
23 authority to sign agreements involving issues of finance and  
24 Guinean economy on behalf of Guinea?

25 A. Yes. And as I explained so well, one minister has to

H4qlthi5

Sande - Direct

1 follow and to obey the government's discipline. Generally  
2 speaking, those agreements have been adopted by the government,  
3 and as a minister, you have to sign for the government.

4 Q. Are you familiar with the term Council of Ministers?

5 A. Yes.

6 Q. Did President Dadis appoint ministers in other sectors  
7 beyond economy and finance?

8 A. Yes, the structure of the government follows the structure  
9 of some governments, like the French government, and so there  
10 are various representations that apply to certain sectors. So  
11 we had the minister of education, of health, we have the  
12 minister of mines, we had, naturally, a minister of defense.

13 Q. So those are some examples of various different ministers.

14 A. Yes. But they are coordinated by the chief of the  
15 government who is, in our case, called the prime minister.

16 Q. And then you also have the president, who in this case was  
17 President Dadis, is that right?

18 A. Yes, of course.

19 Q. Now what does the term Council of Ministers refer to?

20 A. So the Council of Ministers is a council where ministers  
21 can present their own priorities and the things that they want  
22 to achieve, and so these are where most decisions are made as  
23 representatives of the government.

24 Q. Now you testified earlier that Boubacar Barry was one of  
25 the members of the commission to negotiate with the Chinese.

H4qlthi5

Sande - Direct

1 A. Yes, he was the chair.

2 Q. And what was his position in the government at that time?

3 A. Yes, he was the minister of state in charge of construction  
4 of the territory and the reconstruction.

5 Q. And you also testified earlier that Mr. Thiam served as a  
6 member of that commission to negotiate with the Chinese.

7 Correct?

8 A. Yes, according to the decree that was promulgated, I was  
9 also part of that group.

10 Q. And who issued the decree to create that commission?

11 A. The decree is under the discretionary power of the president  
12 of the republic.

13 Q. So the president ordered the creation of that commission.

14 A. Yes.

15 Q. Could you remind the jury again, what was Mr. Thiam's  
16 position at the time in the government?

17 A. He was the minister of mines, and as I said before, he was  
18 the minister of mines and energy.

19 Q. And very broadly speaking, was he in charge of implementing  
20 government policy in the area of mining in that role?

21 A. Yes.

22 Q. The same way you worked on finance in your role as minister  
23 of finance.

24 A. Of finance, yes.

25 Q. And speaking of that, how was the government of the

H4qlthi5

Sande - Direct

1 Republic of Guinea doing financially in early 2009 shortly  
2 after you took your position?

3 A. I didn't quite understand what you meant.

4 Q. Let me repeat that question. What was the financial  
5 condition of Guinea's government when you began as minister of  
6 finance in late 2008?

7 A. Well, first of all, Guinea is one of the poorest countries  
8 in the world, but particularly when people went into power in  
9 2008, what was left over by the former president or the former  
10 system was something very heavy. And especially the last years  
11 of the mandate of President Conté were really characterized by  
12 his sickness, so the situation was very deteriorated at every  
13 single level. So that when the power changed, we were facing a  
14 very serious economic and financial situation.

15 Q. And just to be clear, I think you said that the former  
16 president was sick. Do you mean he was in poor health for the  
17 years leading up to his death?

18 A. Yes, he died from that very precise disease. He was ill  
19 for many years.

20 Q. And as a result, the financial condition of the government  
21 deteriorated over the last few years of his presidency.

22 A. Yes, they deteriorated a lot during the last years of his  
23 mandate.

24 Q. Did there come a time in 2009 when the government of Guinea  
25 began discussions with a company from China?

H4qlthi5

Sande - Direct

1 A. Regarding investments, yes.

2 Q. And was that company called CIF, as you've already  
3 testified?

4 A. Yes, yes.

5 Q. And how did you first come to learn about the discussions  
6 in 2009 with CIF, between the government and CIF?

7 A. Well, its people went to meet the president, and who  
8 introduced them, I can't tell you. And within the framework of  
9 their meetings, then we received some instructions to prepare  
10 some agreements between the government and the CIF.

11 Q. Well, let me first ask you, do you know what kind of  
12 company CIF was?

13 A. Well, at the time being, according to the information that  
14 they gave us, it was a company which was very important and it  
15 represented a very big financial area. And it was supposed to  
16 help Guinea, which was in a very difficult situation, to  
17 resolve the problems which the population was exposed to.

18 Q. Did CIF have a particular interest, any particularly strong  
19 interest, in any particular sector in Guinea?

20 MR. GOLDSMITH: Objection.

21 THE COURT: Sustained.

22 Q. You said that you learned that the president had met with  
23 people from CIF, is that right?

24 A. Yes.

25 Q. And do you know when that meeting, that first meeting took

H4qlthi5

Sande - Direct

1 place?

2 A. It was around June.

3 Q. Do you know exactly when it was?

4 A. No. I cannot give you a clear date because I was not  
5 present during the meeting.

6 Q. You mentioned the president was in the meeting. Do you  
7 know if any other officials from Guinea were in the meeting or  
8 not?

9 A. No, I cannot affirm because I was not even there.

10 Q. Do you know of a person named Sam Pa?

11 A. I know that Sam Pa is the leader of CIF.

12 Q. And do you know whether or not he was involved in that  
13 early meeting with President Dadis?

14 A. Yes. From what I was told, he was the one who came at the  
15 first level.

16 Q. Did CIF have any other representatives in the country of  
17 Guinea at the time?

18 A. Representatives where?

19 Q. That were actually in Guinea.

20 A. CIF representatives?

21 Q. Yes. Was there anyone in CIF who was based in Guinea, or  
22 who came to be based in Guinea?

23 A. Well, yes, there was a certain Jack who was there.

24 Q. Do you know his last name?

25 A. No. It's Jack. That's his name, Jack.

H4qlthi5

1 THE COURT: Counsel, we're going to break for the day.

2 MR. DiMASE: That's fine, your Honor.

3 THE COURT: Thank you.

4 The witness is excused. Thank you.

5 THE WITNESS: Okay.

6 THE COURT: Ladies and gentlemen, I just have two  
7 short things to tell you before excusing you for the day.

8 First, I want to let you know that we are not going to  
9 be sitting on Friday, so we'll have trial tomorrow, all day  
10 tomorrow, and we will resume with proceedings on Monday.

11 I'm going to ask you again to make every effort to be  
12 on time tomorrow so we can start promptly at 9:30.

13 And the second thing is, I know I've told you  
14 repeatedly at the very beginning not to do any research about  
15 this case and to rely on the lawyers to present you the  
16 evidence that you will need in order to make a decision in this  
17 case. But I want to make that even a broader instruction. In  
18 your day-to-day life, it may be that you read newspapers or  
19 watch news or listen to the radio or whatever. I think it's  
20 important that you not read anything about bribery, okay?  
21 Bribery overall. So if you turn the page of the newspaper and  
22 see a story about bribery, just skip over it. Turn the page.  
23 Go on to something else. If there is a television program and  
24 all of a sudden there's a story about bribery, switch the  
25 channel. If on the radio station there is all of a sudden a

H4q1thi5

1 story about bribery, turn the channel. Okay? So we don't want  
2 you to be coming into contact in any way, even inadvertently,  
3 about any story about bribery. Okay?

4 JUROR: Okay.

5 THE COURT: Thank you so much. And with that, do not  
6 discuss the case. Have a nice evening.

7 (Continued on next page)



H4qlthi5

(Jury not present)

THE COURT: So counsel, I've had a chance to read this New York Times article which has today's date, April 26. It was pulled off the internet. I don't know exactly what's in the hard-copy version of the paper of today. It does make reference to the defendant. It says Mahmoud Thiam, Guinea's former minister of mines, is facing corruption charges involving a Chinese company. The article is lengthy and as has already been reported, it bears the following title: Bribe Cases, a Secret Jared Kushner Partner, and Potential Conflicts. There are several mentions about Guinea, and individuals whose names I don't think have been mentioned here at all are included in the article. So this trial is not the focus of the article, but there is that brief mention of the trial and of course there is other commentary about Guinea and corruption issues, besides many other topics. I don't think it's necessary for me to do anything more than I've done. We began this trial with several instructions about not doing any research about the case. I've now given this general instruction about turning the page or turning the channel. I don't think I need to make an inquiry generally about whether any juror has tripped across this article. It would be a little hard to believe they would, since we've been on trial all day. But I'll give you overnight to think about this, and if you want me to pursue anything else with respect to these

H4qlthi5

1 issues, you'll let me know in the morning. But beyond that,  
2 right now do you have any further requests?

3 MR. KOBRE: No, your Honor.

4 MR. DiMASE: Actually, I'm sorry, your Honor. I just  
5 want to inform the Court that there was apparently also a  
6 Bloomberg article that referenced Mr. Thiam directly and  
7 possibly this case in some respect. I have not read it, but  
8 another member of the government who's been working on this  
9 case just told me about that, so I wanted to let the Court know  
10 as well.

11 THE COURT: Thank you. Does that again bear today's  
12 date?

13 MR. DiMASE: If you'll give me one moment, I can find  
14 out more details, your Honor.

15 MR. GOLDSMITH: Your Honor, I also know that the  
16 matter has been reported about in Reuters and Wall Street 360  
17 online, but those have appeared over the last couple of days.  
18 I'm not as concerned about those publications as they do tend  
19 to be focused more on financial and legal industrial  
20 subscription readers, as well as other publications, again,  
21 financial and legal industrial subscription only. I think the  
22 Bloomberg and the New York Times become a bit more concerning  
23 than those, obviously because of local exposure.

24 THE COURT: Okay. And again, without prejudice to  
25 making a different request tomorrow morning after you have had

H4qlthi5

1 the evening to think about this, Mr. Goldsmith, do you have any  
2 request to make of me right now?

3 MR. GOLDSMITH: Not at the moment, your Honor.

4 THE COURT: Okay. Good. So let's just see what other  
5 issues there might be apart from this and then we'll, at 9:00  
6 tomorrow, revisit the issue about press inquiry.

7 Excuse me one minute. Ms. Rojas had something to  
8 share with me.

9 So I have something in addition to raise with you, but  
10 let's just see what else you might have to raise with me.

11 Does the government have anything to raise this  
12 evening?

13 MR. DiMASE: Judge, I would just add, regarding the  
14 Bloomberg article, I've looked at it. It does not appear to  
15 specifically reference Mr. Thiam or this case. It seems to  
16 more broadly refer to the subject matter of the New York Times  
17 article but not this particular case.

18 THE COURT: That is Mr. Kushner.

19 MR. DiMASE: Correct.

20 THE COURT: Okay. And Mr. Goldsmith, anything we  
21 should discuss this evening?

22 MR. GOLDSMITH: No, your Honor.

23 THE COURT: Thank you.

24 So our last alternate has a course that he would like  
25 to attend in the evenings and he would like us to end, if

H4q1thi5

1 possible, at 4:00 on Monday. Now this is a trifle frustrating  
2 since the very first question in the voir dire is whether you  
3 have any commitments that would interfere with your serving as  
4 a juror in a trial that is expected to end no longer than  
5 May 5<sup>th</sup>. And this was not raised by that juror. And so  
6 we'll revisit this later, but my inclination is that we will  
7 deny his request, that this is jury service and he didn't raise  
8 this with us in a timely manner, and he'll be late for that  
9 Monday class. But I want to share this with you, and we can  
10 revisit this as well.

11 Good. So I'll see you tomorrow morning, 9:00.

12 THE DEPUTY CLERK: All rise.

13 (Adjourned to April 27, 2017, at 9:00 a.m.)  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## INDEX OF EXAMINATION

Examination of:	Page
-----------------	------

DAOUDA CAMARA

Cross By Mr. Goldsmith . . . . .	201
----------------------------------	-----

Redirect By Mr. Kobre . . . . .	260
---------------------------------	-----

Recross By Mr. Goldsmith . . . . .	275
------------------------------------	-----

BRIAN ENNESER

Direct By Mr. Kobre . . . . .	280
-------------------------------	-----

LARRY SCARDACI

Direct By Ms. Laryea . . . . .	292
--------------------------------	-----

Cross By Mr. Goldsmith . . . . .	315
----------------------------------	-----

Redirect By Ms. Laryea . . . . .	319
----------------------------------	-----

MAMADOU SANDE

Direct By Mr. DiMase . . . . .	320
--------------------------------	-----

## GOVERNMENT EXHIBITS

Exhibit No.	Received
-------------	----------

1407 and 301-305Q . . . . .	291
-----------------------------	-----

1401 and 201-206 . . . . .	292
----------------------------	-----

801A . . . . .	284
----------------	-----

1601A . . . . .	300
-----------------	-----